

THE FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2004

HEARING BEFORE THE SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTH CONGRESS SECOND SESSION

ON

H.R. 3266

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THE FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2004

TUESDAY, MAY 11, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON HEALTH,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:30 p.m., in room 2123, Rayburn House Office Building, Hon. Michael Bilirakis (chairman) presiding.

Members present: Representatives Bilirakis, Norwood, and Shimkus.

Staff present: Nandan Kenkeremath, majority counsel; Jeremy Allen, health policy coordinator; Eugenia Edwards, legislative clerk; Chuck Clapton, majority counsel; John Ford, minority counsel; and Jeff Donofrio, minority staff assistant.

Mr. BILIRAKIS. This hearing will come to order. Today's hearing will focus on an important piece of legislation that is currently before this committee, and it is important in spite of the fact that we don't have much of an audience out there and certainly none at all up here. But it is a Tuesday afternoon, and I think we all know that many Members of Congress are still traveling.

I would like to thank our witnesses for joining us this afternoon. I can think of very few topics as timely or important as ensuring that we are prepared to respond to any future terrorist attacks. I am sure you all agree with me.

I would like to begin by recognizing our friend and colleague, Mr. Cox, for appearing before the subcommittee. I know he has worked diligently on homeland security issues since assuming the chairmanship of the Select Committee on Homeland Security, and we certainly look forward to his insight as we discuss H.R. 3266.

The Faster and Smarter Funding For First Responders Act of 2003 was favorable reported by the Select Committee on Homeland Security earlier this year. The bill would reform the manner in which the Department of Homeland Security issues grants to State and local governments to enhance the ability of first responders to prevent, prepare for and respond to acts of terrorism. The primary revision to the current law would be to change the criteria used to distribute funding for two existing first responder grant programs: The State Homeland Security and the Urban Area Security Initiative Grant Programs.

As the Energy and Commerce Committee prepares to consider this legislation, I think it is important that members understand how this bill interacts—very significant—how this bill interacts

with existing programs under this committee's jurisdiction. For example, one of this committee's most important achievements over the past several years was the Public Health, Security and Bioterrorism Preparedness and Response Act of 2002. This bipartisan legislation significantly enhanced our Nation's ability to respond to an attack using biological or chemical weapons.

Included in this act are new grant programs designed to improve state, local, and hospital preparedness for bioterrorism and other public health emergencies. Such grants can include funding for emergency medical service providers and other first responders, similar to what is included in H.R. 3266. I am therefore interested in exploring further how we can maximize the effectiveness of both of these grant programs.

I am also interested in hearing more about Homeland Security Presidential Directive 8, which President Bush signed December 17, 2003. Through HSPD-8, the President tasked Secretary Ridge, in coordination with other Federal departments and State and local jurisdictions, to develop national preparedness goals, improve delivery of Federal preparedness assistance to State and local jurisdictions, and strengthen the preparedness capabilities of Federal, State, territorial, tribal and local governments. The interaction between executive branch actions and acts of Congress is important and one I intend to explore further this afternoon.

In addition to Mr. Cox, we have two additional witnesses that will be able to provide the subcommittee with important perspective on this issue. The second panel will consist of Andrew T. Mitchell, Deputy Director of the Office of Domestic Preparedness at the Department of Homeland Security, and William Raub, Acting Assistant Secretary for Planning and Evaluation at the Department of Health and Human Services. Thank you both for joining us today.

I am interested in being updated on the progress being made to implement provisions of the Public Health Security and Bioterrorism Preparedness and Response Act with respect to first responders, the rationale behind HSPD-8 and any potential changes in allocations of responsibility and expertise between HHS and DHS under either H.R. 3266 or HSPD-8.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY
AND COMMERCE

Thank you Mr. Chairman.

I commend you for holding this hearing on H.R. 3266, the Faster and Smarter Funding for First Responders Act. I also commend Chairman Cox and Ranking Member Turner for their leadership and bipartisan work in the Select Committee on Homeland Security. Today we will further review the vitally important work being done to upgrade our Homeland Security, preparedness, and response capabilities.

We want to ensure that state and local governments have the essential capabilities to allow them to respond to terrorist attacks and other potential public emergencies. We also want to ensure that Federal grants are used to acquire the right equipment, training, and interoperable communications systems for first responders.

Both the Department of Health and Human Services and the Department of Homeland Security have important roles and expertise in these areas. Last Congress the President signed the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. That Act set out a broad role for the Department of Health and Human Services in coordinating preparedness and responses to bioterrorism and other public health emergencies.

This law also envisioned the need for coordination between states, local governments, hospitals, emergency service personnel and other first responders. Section 108 of the Act set out a specific interagency workgroups to address guidance on many of the issues related to first responders.

In the Homeland Security Act of 2002, Congress basically preserved this role for the Department of Health and Human Services but provided the new Department of Homeland Security with an overall management and coordination role for Federal responses to terrorist attacks and other emergencies. Several existing Department of Homeland Security grant programs provide for improving the capabilities of State and local governments, including for provisions for first responders.

It is important that any new legislation be drafted carefully to maximize the expertise of each agency, to rationally utilize existing programs and working groups, and to minimize inconsistencies and unnecessary overlaps.

I look forward to hearing from today's witnesses on the operation of current law and programs for first responders and the relation of these current laws and programs to H.R. 3266.

PREPARED STATEMENT OF HON. SHERROD BROWN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF OHIO

Thank you, Mr. Chairman, for holding today's hearing.

Welcome Chairman Shays. I hope our two committees will continue to work together to address the safety of the country.

And welcome Mr. Mitchell and Mr. Raub. Thank you for sharing your expertise this afternoon.

In the wake of the Sept. 11 attacks, this Congress reexamined how to better support our first responders—our first line of defense against bioterrorist attacks.

This committee worked tirelessly to address the needs of our first responders—and the larger public health system—through development and passage of the bioterrorism bill.

And following that, Congress created the Department of Homeland Security, another important step towards protecting the country against terrorism.

The principal goal of the bill we're considering today, H.R. 3266, is to improve the way funding flows to states and localities, giving priority to those localities with the greatest level of threat.

While the bill will not alter grants distributed through HHS, this hearing offers our committee the opportunity to learn more about the progress made under the bioterrorism bill, the relationship between HHS and the Department of Homeland Security, and where, if at all, there are duplicative efforts.

I look forward to the hearing the views of our expert panel and hope the committee will take these opinions into consideration and make any necessary changes to the bill before it is brought to the House floor for a vote.

Thank you.

PREPARED STATEMENT OF HON. BART STUPAK, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MICHIGAN

Mr. Chairman, thank you for calling this hearing, and Representative Cox, Mr. Mitchell, and Mr. Raub, thank you for joining us today to discuss Homeland Security and HR 3266, the Faster and Smarter Funding for First Responders Act of 2004.

I am generally supportive of provisions in this bill that would help states, local governments, and first responders better prepare for acts of terrorism by evaluating and prioritizing those communities that are most threatened. And I am hopeful that this hearing will provide insight on how changes to HR 3266 may better enable the Department of Homeland Security and the Department of Health and Human Services first responder authorities to work together as efficiently as possible.

What still concerns me, however, is that Homeland Security funding is not trickling down to the locals on the ground where they need it most. Since September 11, 2001, many in this nation and this Congress have come to recognize the importance of the sacrifices made by our first responders. Every day these men and women put their lives on the line in order to protect and serve our communities.

Unfortunately, when I am back in my District in Northern Michigan, what I'm hearing from our first responders is that they are just not seeing the amount of funding necessary to obtain the resources they need to protect their communities and themselves.

This was corroborated by the Conference of Mayors on January 22nd of this year when it released a homeland security evaluation which reported that an astonishing 76 percent of cities have still not received any funding from the largest homeland security program designated to assist first responders.

Changes are obviously needed in the capital outlay process so Homeland Security money can get out to our first responders in a more efficient and timely manner. The state must have the ability to directly release funds to the locals instead of reimbursing them only after they have already spent their own money. As the Representative of Michigan's most rural congressional district, it just doesn't make sense to me that small communities are required to shell out tens of thousands of dollars up front to procure their homeland security needs and update their emergency services when Congress has already appropriated these funds. It is also essential that our first responders are educated about this process so they can receive this crucial funding.

Not only do we need to get this money directly out to our first responders as soon as possible, but we need to start fully funding these programs. The State Homeland Security Grant program was funded at \$1.7 billion in FY 04, but President Bush's budget request for 2005 slashes the program to \$700 million. Overall, the President's budget would reduce first-responder assistance by 14.5 percent from the \$4.18 billion that Congress appropriated for FY 04 to \$3.75 billion in FY 05. This kind of budget cut is shocking to me considering the Bush Administration claims Homeland Security funding is a top priority.

We also need to provide assistance to help regional law enforcement and first responders communicate with each other in times of emergency. My bill, HR 3370, The Public Safety Interoperability Act, would provide grants to local law enforcement agencies to modernize their communication systems and become interoperable, allowing different public safety agencies in different jurisdictions to communicate in times of crisis.

The tragic events of September 11th illustrated why it is imperative that our law enforcement officers are fully interoperable. Police, Fire, and Emergency Medical Services personnel from multiple jurisdictions were called to respond to the World Trade Center attacks in New York City. First responders found themselves unable to communicate with other emergency personnel because of the different communications systems and radio frequencies.

343 firefighters and 72 law enforcement officers lost their lives in the World Trade Center on September 11th. 121 of those firefighters who died lost their lives because they were unable to receive radio warnings that the second tower looked ready to fall. When our first responders are confronted with an emergency situation, it is absolutely necessary that they are able to communicate with one another so they can fully assess the situation and how best to handle it.

We must provide our first responders with adequate resources and the proper funding they need to protect their communities and themselves from daily crime and threats of terrorism.

Thank you, Mr. Chairman, for this opportunity to discuss the improvements that must be made so our first responders can do their jobs in the best and most efficient way possible.

Mr. BILIRAKIS. We now have before us, the gentleman from California. We look forward to your testimony today. Please proceed.

STATEMENT OF HON. CHRISTOPHER COX, CHAIRMAN, HOUSE SELECT COMMITTEE ON HOMELAND SECURITY

Mr. COX. Well, thank you, Mr. Chairman. I very much appreciate the opportunity to testify today. This bill, as you know, passed the Select Committee on Homeland Security with the unanimous support on a roll call vote of all the Republicans and Democrats on the committee. And, as you know, while I am here in my capacity as chairman of that Select Committee, I am also a proud member of this committee, and I recall how very recently the Energy and Commerce Committee and the Select Committee on Homeland Security worked in close cooperation to produce the legislation that gave us Project Bioshield. I look forward to doing the same on this first responder bill and moving to the House floor as expeditiously as possible.

It is especially fitting that we are focusing on the needs of first responders today because this is National Police Week. This is a time when we honor the sacrifices made by those who protect our communities. It is also a day when television has been showing us and telling us of the grisly beheading of an American civilian who was trying to build telecommunications infrastructure for the people of Iraq. The execution, the beheading was performed by al Qaida serving as yet another reminder, if one were needed, that today's hearing is not a theoretical exercise. These people are out to kill Americans.

We are asking law enforcement personnel to adapt, therefore, to a new anti-terrorism mission, and we have got to give these people the support that they need to carry out their crucial role in defending our country. The bill we are discussing today, the Faster and Smarter Funding for First Responders Act, will do that.

By way of background, since September 11, 2001, the Congress, Mr. Chairman, has appropriated more than \$23 billion to help States, localities and first responders be prepared for acts of terrorism or other public emergencies. This money has been awarded through multiple grant programs administered by several Federal agencies, including not only the Department of Homeland Security but also the Department of Justice, the Federal Emergency Management Agency now subsumed in DHS, the Department of Health and Human Services, and so on.

Some of this money goes to support traditional, non-terrorism-related pre-September 11 priorities. Other monies go to activities that our first responders have only undertaken in a serious way since September 11. The latter pot of money accounts for the largest single grant awards over the past 2 years. DHS, and before it the Department of Justice, has awarded roughly \$6.3 billion to States for the specific purpose of terrorism preparedness since September 11. The President's budget for 2005 requests an additional \$2.6 billion. That is an increase over 2001 levels of over 2000 percent.

Despite this enormous increase in funding, our first responders continue to report that they aren't seeing the money. They haven't received most of the money, mostly due to what we have discovered are administrative bottlenecks at various levels of government. We have been able to ascertain that Congress really did appropriate it, DHS really did make the grants, the Governors really did obligate the funds, and yet the first responders aren't receiving it.

An even bigger problem, in my view, is that our terrorism preparedness funding is being allocated at the Federal level in a manner that does not direct the money to where we need it the most. This is a pattern often repeated at the State level where grants are not made according to risk. In the immediate aftermath of September 11, Congress passed the Patriot Act, which contains some vitally needed provisions, such as the elimination of the wall between law enforcement and intelligence that kept those two fields separate, even in terrorism-related investigations.

But the Patriot Act also put in place a very arbitrary political formula for the distribution of anti-terrorism grants to the States. It guaranteed that every State, no matter how big or how small, would receive the same fixed percentage of funding, 0.75 percent of

the total each year, which collectively accounts for 40 percent of all the grants.

At the same time, the Patriot Act has applied this formula, which was \$1 million at September 11 to a much larger pot of money—\$15 million last year. Now, I mentioned that 40 percent is automatically sent to the States according to this fixed formula, 0.75 percent no matter what. The remaining 60 percent of the grant funds are distributed to the States based solely on population, ensuring that even the smallest State receives an additional amount of money, for a total of more than \$17 million last year. We can't afford to keep dispensing money according to these political formulas without regard to the actual risks of terrorism.

So the Homeland Security Committee has worked now for over a year on this problem of how to get the money to where it is intended and how to make that the money is granted on the basis of actual vulnerabilities, actual threat risk to population and consequences of a terrorist attack, actual intelligence about terrorist capabilities and terrorist intentions. We need to look at all of those factors and prepare accordingly.

The legislation's name is faster and smarter. It is faster now because by requiring and incentivizing States to pass through their awarded funds to localities within tight timeframes and by penalizing States that fail to do so and by allowing regions to apply directly for funds and by substituting actual cash for the potential of reimbursement, we are going to get the money to its intended destination right away.

It is smarter because we are allocating grant awards to States and regions based on an assessment of terrorist threat, vulnerability and consequences; in other words, the actual risks that they face. Terrorists are not arbitrary in their selection of targets, and we shouldn't be arbitrary in how we prepare to deal with them.

H.R. 3266 also ensures that terrorism grant funding is used to achieve clear and measurable preparedness goals, which the legislation describes as essential capabilities. We want to be sure that are building toward an objective—an objective standard for being prepared against these known risks. Right now many States and localities simply aren't sure how to utilize the money most effectively, which is yet another reason for the delay in actual spending at the local level. We know that not all communities are the same or face the same types of risks. Accordingly, we need to help communities identify their unique terrorism preparedness needs. The bill before you today will do this.

Let me emphasize just two points, Mr. Chairman, Mr. Norwood, for your consideration. First, the bill you are considering covers only those terrorism-specific preparedness grants administered by the Department of Homeland Security. As I mentioned, there are many other departments and agencies of the government that also have other programs, most of which anti-date September 11. They are not covered by this legislation. All aspects of the bill, including risk-based allocation of grants, which I have just mentioned, including the State strategies, the creation of essential capabilities, training and equipment standards and certain administrative procedures, all of these things apply only in the context of those DHS grants. The bill expressly excludes all grant programs administered

by HHS and other Federal agencies. It is an amendment to the Homeland Security Act, and it is tailored to a very specific purpose.

Second thing is that the definition of first responders in the legislation is exactly the same as the definition of emergency response providers that is already in the Homeland Security Act. What that means for this committee is that in addition to fire fighters and police officers, we also include emergency medical personnel and related agencies. That is consistent with the long-standing practice of ODP even when it was in the Department of Justice. This broad definition ensures that the emergency medical community is included as a key element in anti-terrorism planning, training and equipment purchases. In this respect, the bill in no way alters current practices or policy.

Finally, let me say that with the creation of the Department of Homeland Security came not only the opportunity to consolidate what the Federal Government is doing but also new opportunities for overlap and duplication. I am happy to say that both the Department of Homeland Security and HHS have worked diligently to avoid any duplication in public health preparedness grants. They have largely focused on different end users and on different priorities.

President Bush recently issued a Presidential Directive that you referred to in your opening statement, Mr. Chairman, that is the basis for the ongoing construction of a fully coordinated and streamlined Federal grant process for terrorism and other emergencies. That fully coordinated interagency process will be completed by the middle of next year, and it should eliminate any concerns about potential overlap in DHS and HHS programs.

So this bill is a nice complement to what already is going on. It is a nice complement to what HHS is separately doing. There is, for example, a First Responder Essential Capabilities Task Force that this bill creates that is a complement to, and in no way an overlap with, the Federal Working Group established under the authority of the HHS Secretary. That HHS Working Group was established several years ago to review matters relating to bioterrorism and public health emergencies.

The HHS Bioterrorism Working Group is focused on public health emergencies, with particular concern for research on and prioritization of pathogens and biomedical countermeasures. Its participants are Federal agencies, and its goal is to make sure that there is coordination among Federal partners in the fight against bioterrorism. By contrast, the task force that is set up in this legislation, the Essential Capabilities Task Force, is made up not of Federal agencies but of first responders, State and local officials. Its focus is on creating clearly defined and measurable goals for preparedness, and its aim is to tailor these to the needs of different communities for all forms of terrorism.

This first responder task force is critical because of the importance of hearing from those on the front lines and in our local communities. We need to hear from them directly about what their needs are and what their priorities should be. And, as I mentioned earlier, the essential capabilities created under this bill would not have any impact beyond the DHS grant programs covered by the bill.

Mr. Chairman, I appreciate the opportunity to testify before you. I urge this committee to report the bill quickly so that we can help our Nation meet the urgent challenge of terrorism in our cities and home towns. I want to thank you for your consideration, and tell you that I look forward to working as a member of the Energy and Commerce Committee on the consideration of the bill, and I would be glad to answer any questions that you have. subject.

[The prepared statement of Hon. Christopher Cox follows:]

PREPARED STATEMENT OF HON. CHRISTOPHER COX, CHAIRMAN, HOUSE SELECT
COMMITTEE ON HOMELAND SECURITY

Thank you Chairman Bilirakis and Ranking Member Brown for the opportunity to testify today on H.R. 3266, the "Faster and Smarter Funding for First Responders Act of 2004"—a bill that recently passed the Select Committee on Homeland Security unanimously. As you know, I am the Chairman of the Select Committee, but I am also honored to be a long-time Member of the Energy and Commerce Committee. I look forward to working with you and all the Members of this Committee to move this first responder bill to the House floor as expeditiously as possible.

It is especially fitting that we are focusing on the needs of first responders today, during National Police Week—a time when we honor the sacrifices made by those who protect our communities and our freedom. Effective law enforcement is critical to upholding our national traditions and maintaining our quality of life.

As law enforcement officers adapt to their new anti-terrorism missions, we must give them the support necessary to carry out their crucial role in defending our homeland. The bill we are discussing today, the Faster and Smarter Funding for First Responders Act, would do just that.

By way of background, since the tragic events of September 11, 2001, the Congress has appropriated more than \$23 billion to help our States, localities, and first responders improve preparedness for future acts of terrorism or other public emergencies. This money has been awarded through multiple grant programs administered by several Federal agencies, including the Department of Justice, the Federal Emergency Management Agency, the Department of Health and Human Services (HHS), and—since March 2003—the new Department of Homeland Security (DHS).

Some of this money goes to support traditional, non-terrorism-related missions of our first responders, such as the COPS program and the FIRE Act program. Some of this money goes to support activities that help our first responders prepare for public emergencies, whether terrorist-inflicted or naturally-occurring, such as the HHS public health preparedness grants awarded to State and local public health departments and emergency medical centers. And some of this money—most notably, from the DHS Office for Domestic Preparedness, or ODP—goes specifically to help first responders prevent, prepare for, and respond to acts of terrorism, particularly those involving weapons of mass destruction.

This latter pot of money accounts for the largest single grant awards over the past two years. DHS—and, before it, DOJ—has awarded roughly \$6.3 billion to States for this specific purpose since September 11th. The President's Fiscal Year 2005 budget requests an additional \$2.6 billion—an increase of more than 2,000 percent over 2001 levels. Despite this enormous increase in funding, our first responders continue to report that they have not yet received most of this money, due to administrative bottlenecks at various levels of government. A recent analysis by the Homeland Security Committee found that roughly \$5.2 billion of the \$6.3 billion awarded since 2001 remains stuck in the pipeline, unused.

An even bigger problem, in my opinion, is that this terrorism preparedness funding is being allocated at the Federal level in a manner that does not direct the money to where we are most threatened by terrorism—a pattern often repeated at the State level. In the immediate aftermath of September 11th, Congress passed the PATRIOT Act, a vital piece of legislation that removed the "wall" that had kept law enforcement and intelligence information separate even in terrorism-related investigations.

But the PATRIOT Act also put into statute arbitrary, political formulas for the distribution of anti-terrorism grants to States. It guaranteed that every State—no matter how small its population or actual risk—received .75 percent of the total grant funding each year, resulting in roughly 40 percent of the grant funds being distributed without regard to risk or need. At the time the PATRIOT Act passed, this guaranteed minimum totaled less than \$1 million per State. Last year, due to the enormous increase in overall funding, the guaranteed minimum was more than

\$15 million per State. The remaining 60 percent of these grant funds was distributed to States based solely on population, ensuring that even the smallest State received an additional \$2 million last year—for a total of more than \$17 million. Frankly, we can't afford to keep spending such sums without regard to actual risk.

I introduced H.R. 3266 to address both of these problems—to make this funding both faster and smarter. Faster, by requiring and incentivizing States to pass through their awarded funds to localities within tight timeframes, by penalizing States that fail to do so, and by allowing regions to apply directly for funds in certain circumstances.

Smarter, by allocating grant awards to States and regions based on an assessment of terrorist threat, vulnerability and consequences—in other words, the actual risks they face. Terrorists are not arbitrary in their selection of targets. We cannot afford to be arbitrary in how we prepare to deal with them.

H.R. 3266 also ensures that this terrorism grant funding is used to achieve clear and measurable preparedness goals, which we call “essential capabilities.” Right now, many States and localities simply are not sure how to utilize this money most effectively, which is yet another reason for the delay in actual spending at the local level. We know that not all communities are the same, or face the same types of risks. Accordingly, we need to help communities identify their unique terrorism preparedness needs. The bill before you today will do this, speeding actual use of grant funds and ensuring that the money is wisely spent.

Let me emphasize several points for your consideration. First: The bill you are considering covers only those terrorism-specific preparedness grants administered by the Department of Homeland Security. All aspects of the bill—including risk-based allocation of grants; State strategies; creation of essential capabilities; training and equipment standards; and various administrative requirements—apply only in the context of those DHS grants. The bill expressly excludes all grant programs administered by HHS and other Federal agencies. It is an amendment to the Homeland Security Act, tailored to a very specific purpose.

Second: The definition of “first responders” in this legislation is exactly the same as the definition of “emergency response providers” that is already in the Homeland Security Act. In addition to firefighters and police officers, this definition includes emergency medical personnel and related agencies. That's consistent with the long-standing practice of ODP even when it was in the Justice Department. This broad definition ensures that the emergency medical community—which works hand-in-hand with the more traditional first responders—is included as a key element in anti-terrorism planning, training, and equipment purchases. In this respect, our bill in no way alters current practice or policy.

With the creation of DHS came the potential for overlap with other pre-existing departments and agencies, including HHS. Both DHS and HHS have worked diligently to avoid any duplication in public health preparedness grants. They have largely focused on different end users, and on different priorities. President Bush recently issued a Presidential Directive that is the basis for the ongoing construction of a fully coordinated and streamlined Federal grant process for terrorism and other emergencies. That fully coordinated inter-agency process, which will be completely in place by the middle of next year, should eliminate any concerns about potential overlap in DHS and HHS programs.

Finally, the First Responder Essential Capabilities Task Force created by H.R. 3266 should not be confused with the Federal working group established under the authority of the HHS Secretary several years ago to review matters relating to bioterrorism and other public health emergencies. First, the HHS bioterrorism working group is focused on public health emergencies, with particular concern for research on and prioritization of pathogens and biomedical countermeasures. Its participants are Federal agencies, and its aim is to ensure coordination among Federal partners in the fight against bioterrorism. By contrast, the Essential Capabilities Task Force in H.R. 3266 is made up of first responders and Federal, state and local officials. Its focus is on creating clearly defined and measurable goals for preparedness, tailored to different types of communities, for all forms of terrorism. This first responder task force is critical because of the importance of hearing from those on the front lines and in our local communities directly about what their needs are and what their priorities should be. And, as noted earlier, the essential capabilities created under H.R. 3266 would not have any impact beyond the DHS grant programs covered by the bill.

Mr. Chairman, I greatly appreciate the opportunity to testify on H.R. 3266, the Faster and Smarter Funding for First Responders Act of 2004. I urge this Committee to report the bill as quickly as possible to help our Nation meet the urgent challenge of terrorism in our cities and home towns. Thank you for your consider-

ation, and I would be glad to answer any questions Members of this Committee might have on this subject.

Mr. BILIRAKIS. Thank you, Mr. Cox, and thank you for your great work on this issue. I am not sure whether we have had past history, similar history where we have started a committee under the circumstances under which Homeland Security was founded just a couple of years ago.

Let me ask you very quickly, even though it is more of a tradition than anything else that we do not ask questions of fellow Members of Congress when they appear before us. Do you feel that the bill contains—the combination of the bill along with what already exists contains adequate accountability? We know that grants and funds have gone to States, local governments and what not but never did reach the first responders. It seems like there is a lack of accountability there somewhere along the line. Do we know where those funds are, in the first place?

Mr. COX. We do, and we are increasingly aware of the anomalies that created this problem. The first responders obviously want the money, they want to spend it. The Governors are trying to get it to them. Congress wants them to have the money, and so how can it be? And what we found is that there are a handful of reasons this money is stuck in the pipeline.

First, many of the grant applicants aren't prepared to spend the money. Once the grant is made, they then begin the task of figuring out on what precisely what they should spend it. The grant process does not automatically approve the spending as it should, and so we can change that with this legislation. Second, we have many localities unable to come up with the money on the front end, so they can't take advantage of a reimbursement program. They are trying to put together the monies to go spend it so that then they can apply for reimbursement, but they may not have the money in the first place. Third is that there are patchwork of sometimes bizarre local requirements for additional approvals for spending the money locally even after you get the Federal and State approvals. So, for example, in New Hampshire, there has to be an approval at a town meeting, which takes place in March, and if you miss the March meeting, then you wait until next year.

There are a number of things like this that should be very short work to fix, and I think we have got a pretty good handle on it. Everybody wants to fix the problem. This legislation can do that.

Last, Mr. Chairman, with respect to accountability, it is very hard to hold people accountable when you haven't set any standards. We need to make sure that we focus on spending this money on the basis of risk rather than just doling it out sort of arithmetically and seeing what happens. So the greatest leap forward in terms of accountability will be linking the billions of dollars that we are investing in intelligence and learning about what the terrorists are up to and what they might do to us and the additional tens and even hundreds of millions that we are spending on learning our own vulnerabilities and then mapping the threats against the vulnerabilities and spending the money accordingly.

Mr. BILIRAKIS. Well, thank you for that. It is amazing, the New Hampshire example is a good one in some of the things that we are really faced with in these types of cases.

Let us say there is a county sheriff's department in whatever State, not New Hampshire but any other State, and it qualifies as a first responder and it needs radios in order to be able to do their job adequately as a first responder. How many grants might be available, different types of grants might be available for that sheriff to go to in order to be able to get the money that is needed?

Mr. COX. I don't know, Mr. Chairman, and that is a very—

Mr. BILIRAKIS. There might be more than one, in other words.

Mr. COX. Of course. That is a very real-life example, and I would dare say that you, Mr. Chairman, Mr. Norwood and I have gotten that question or something very much like it from our constituents and our case workers and people in our office here in Washington are all busy trying to figure out how this all works. It is quite a maze for people to try and understand. What we are trying to do in this legislation, at least with respect to one cabinet department, the Department of Homeland Security, is create a single grant program for terrorism preparedness that will accommodate all of these potential uses, so there is no question about where you go for the money.

Mr. BILIRAKIS. Yes. I would say so. Is it your intent to move legislation that the grant programs authorized by this legislation restrict themselves to first responder issues or can these grants be used for other homeland security purposes beyond those of assisting first responders in their efforts?

Mr. COX. I will say, first, that the purpose of the legislation is to make first responder grants, and it is meant to focus on the post-September 11 counterterrorism, terrorism preparedness priority. That are what these grants will be for. But that, second, on the grantee side, we have an all hazards approach, and we don't have a separate police department or a separate fire department for terrorists, and so once they get the money this is going to complement their overarching mission and that is fine. But what the bill does establish is a strict line of demarkation on the donor side so that we are not robbing Peter to pay Paul, we are not stretching the pre-September 11 programs on a Procrustean bed and making them do double duty and pretending to be—giving, for example, the Fire Act or COPS or some other pre-September 11 purpose and at the same time giving for the post-September 11 counterterrorism priorities and mixing it all up and nobody can quite tell how much is going to which priority.

So I think it is possible for us in the Federal Government to say this is for fighting terror, and we are going to focus you in these areas and we want to use the money in these areas, and we are going to favor applications for grants in these areas. But we recognize that back home you are also preparing for forest fires, buildings burning down, chemical spills, rape, murder, robbery, all of the things that go on, and if this complements that in any way, there is certainly nothing wrong with that.

Mr. BILIRAKIS. I think that answers that question for the moment. All right. Thank you, Mr. Cox. Dr. Norwood, any questions?

Mr. NORWOOD. Thank you, Mr. Chairman. Mr. Cox, just a sort of simple question, really. The funds that are being funneled now you have said it numerous times, it appeared to me, that they are not actually getting to the first responder, whether that be a police-

man, a fireman or a health care person, and you are saying to me that this bill will help that. This bill will focus those funds into the first line of defense.

The grants that you envision here is there monies in here—I am concerned about the lack of training and standardization that is going on. The radios that the chairman was talking about in one town surely ought to function and be connected to or able to connect to the radios in a town 20 miles away in case a disaster occurs there. And just a little bit of my observation out there that I don't know how standardized we have gotten, and I don't know if HHS has actually concerned itself with training, because a lot of times they get this money—what I am hearing them say, they get these dollars but they are not sure exactly how they need to spend these dollars or, “Who do I call up to call up to come in and frame my entire fire department?” Now, tell me how this bill can help with that?

Mr. COX. The grant monies under this legislation can be used for training. They can also be used for equipment purchases. They can also be used to build in interoperable communications network. The Department of Homeland Security has already established baseline standards for interoperable communications for first responders, and I will say on that point that there is legislation that our committee members have been very, very keen to look at and mark up on the first responder interoperability question. We have deferred to the jurisdiction of the Energy and Commerce Committee on that point because, among other things, it involves spectrum. So there is work that we can do, and I say we as a member of the Energy and Commerce Committee, to advance that solution in a way that I can't do it on the Homeland Security Committee.

Mr. NORWOOD. Well, I am going to ask our next guest a little bit about this in terms of what actually is going on in the country about training people. Do we actually have a group of people who we believe knows what to do in many situations that a first responder is called for? And if that is the case, are they then training other people to be trainers? But I will get to the next panel with that, and I thank you for your leadership in this area.

Mr. COX. Well, it is an excellent area of emphasis.

Mr. BILIRAKIS. Mr. Shimkus to inquire.

Mr. SHIMKUS. I have no questions, Mr. Chairman. Thank you.

Mr. BILIRAKIS. Thank you, sir. Thank you, Chris—

Mr. COX. Thank you, Mr. Chairman.

Mr. BILIRAKIS. [continuing] for taking time to be here and, again, thanks for your great work.

The next panel consists of Mr. Andrew T. Mitchell, Deputy Director of the Office of Domestic Preparedness with the U.S. Department of Homeland Security, and Mr. William Raub, the Acting Assistant Secretary for Planning and Evaluation with the U.S. Department of Health and Human Services.

I have already welcomed you, gentlemen, and I do so again. Your written statement is a part of the record. We would hope that in your statement here today you will complement it, supplement it, whatever the case might be. Mr. Mitchell, why don't we start with you?

**STATEMENTS OF ANDREW T. MITCHELL, DEPUTY DIRECTOR,
OFFICE OF DOMESTIC PREPAREDNESS, UNITED STATES DE-
PARTMENT OF HOMELAND SECURITY; AND WILLIAM F.
RAUB, ACTING ASSISTANT SECRETARY, PLANNING AND
EVALUATION, U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

Mr. MITCHELL. Thank you, Mr. Chairman. Chairman Bilirakis and members of the subcommittee, my name is Andy Mitchell, and I am currently the Deputy Director of the Office for Domestic Preparedness in the Department of Homeland Security. And on behalf of Secretary Ridge and ODP Director Sue Mencer, it is my pleasure to be here today to appear before you and to discuss things that are going on in the Department, Office for Domestic Preparedness and our efforts to enhance the capabilities of State and local governments to address the challenge of terrorism domestically.

ODP is the primary Federal Government agency responsible for preparing the Nation against terrorism by assisting States, local jurisdictions, regional and tribal governments in building their capacities to prevent, prepare for and respond to acts of terrorism domestically. Since its creation, ODP has provided assistance to all the States, 50 States, the District of Columbia, Commonwealth of Puerto Rico and the United States territories. We have trained more than 325,000 emergency responders and more than 5,000 jurisdictions and conducted more than 300 exercises across this country. By the end of the fiscal year 2004, ODP will have provided more than \$8.1 billion in financial assistance and support to State and local governments.

As of this week, 52 of the 56 States and territories have received their 2004 fiscal year funding under the Homeland Security Grant Program. This program includes funds to support statewide preparedness efforts under the State Homeland Security Program, the Law Enforcement Terrorism Prevention Program and the Citizens Corps Program. These awards total over \$1.9 billion and a total of \$2.2 billion will be provided under this initiative when we complete the award of the 56 grants.

Further are the 50 urban areas designated under the fiscal year 2004 Urban Area Security Initiative, or the UASI Program. Forty-eight of those 50 jurisdictions have received their funding to date, and that represents \$644 million of a total of \$670 million available for the Urban Area Security Program this year. We have provided funds to 30 of the Nation's most used urban transit systems in 2004. All \$49 million for that program to those 30 systems has already been awarded. And during this fiscal year at ODP, in cooperation with United States Fire Administration, we will make nearly \$750 million in direct assistance to fire departments across the Nation under the Assistant to Fire Fighters Grant Program.

As we have heard today from Chairman Cox's presentation, much of how the States and territories distribute and utilize the Homeland Security Grant Program funds are influenced by the results of the State assessments and the statewide strategies that they have provided to our office. They were due in our office January 31 of this year. These strategies are important to both the States and local governments as well as to our office and to the Federal Government. They provide information regarding

vulnerabilities, capabilities, future requirements and define each preparedness goals and objectives. In essence, it provides the States a road map on how current and future funding can and should be applied in the areas of equipment, exercises training and other preparedness resources. And they provide the Federal Government with a better understanding of the first responders' needs and requirements. All 56 States' strategies have been received and reviewed, only 4 remain to be approved, and they should be approved very shortly.

DHS' mission is critical, its responsibilities great, and we have only been at this a year, so I have had to assume a lot in the last 12 months. But we do know that we can do better, and we want to continue to identify ways that we can do better and improve.

Since the creation of DHS, the Department has worked very closely with the Congress on how to better fulfill our common goal of a more secure America and from OD's unique position to assist our State and local partners. And one such congressional effort is H.R. 3266, the focus of this hearing today, the Faster and Smarter Funding for First Responders Act.

As Chairman Cox discussed, this is a major attempt to improve how the Department provides assistance, and since the bill's introduction, the Department has worked with the staff of the Select Committee and more recently has provided the Select Committee a White Paper containing the Department's observations and comments on the various provisions of that bill. And with your permission, Mr. Chairman, I would like to share those views with this subcommittee and provide a copy of that White Paper for inclusion in the record.

Mr. BILIRAKIS. Without objection, that will be the case.
[The following was received for the record:]

DEPARTMENT OF HOMELAND SECURITY RECOMMENDATIONS CONCERNING H.R. 3266,
"FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2003"

The Administration supports much of this legislation and, in particular, supports the Committee's intent, expressed in H.R. 3266, to further facilitate funding for our first responders. The Administration also acknowledges the extensive work on the part of the Committee to address some of the Administration's concerns with particular elements of this legislation. The Administration further looks forward to discussing the following issues with the Committee.

1. Regional Applications for Grant Funding:

The Department recognizes that particular localities encompass more than one state jurisdiction, and as a result has incorporated a regional feature in the Urban Area Security Initiative. Regional funding may conflict with state assessments strategies, which states and localities have worked to complete recently. To the degree regions do factor in a state's overall response, these are factored in state plans. Direct funding to tens of thousands of municipalities would, however, bypass such essential planning, while at the same time require an exponential increase in the time and cost to review such proposals and track funding.

2. Modification of the Homeland Security Alert System (HSAS):

The Department applauds the efforts of the Committee to examine the operation of the HSAS as a means to more efficiently and precisely alert the nation. The Department is strongly concerned that the current language is too prescriptive as it would mandate implementation of a warning scheme without consideration of sufficient supporting intelligence. Since intelligence and information requirements shift, it is our experience that the Secretary should be able to maintain as much flexibility as possible in providing critical information to states and localities. Furthermore, the Department believes that the provision requiring the Secretary to report annually to Congress on the bases for geographic or economic sector specific HSAS warn-

ings is unnecessary due to the current active information sharing structure with State and Local entities regarding threat warnings. While DHS continues to improve this structure, this appears to be the most appropriate means to assure adequate information sharing and we would be pleased to discuss this structure further with the Committee.

3. Task Force and Essential Capabilities:

The Department appreciates the Committee's efforts to enhance the security of the homeland which underlie the proposed new task force. However, it is unclear how such duplication of the current advisory mechanism, provided for under Section 871 of the Homeland Security Act of 2002, would enhance the Department's mission. The Department believes a more efficient approach could be attained through the combination of these task force/essential capabilities provisions into the existing advisory structure, an approach that could be accomplished either by legislative or administrative means. The Department looks forward to working with the Committee to explore these alternate avenues and, in addition, to determine if the Committee sees specific needs not already met by these advisory groups.

4. Imposition of Penalties for Delayed Pass-Through to Localities:

In principle, the Department agrees with the Committee that imposition of penalties may be appropriate as part of a larger goal to move these funds rapidly to the localities. The Department looks forward to discussing several practical implications, such as statutory time frames for disbursement of funds, scope of penalties, effect on flexibility of the funding, and effective deadlines.

5. Prohibition on Use of Grant Funds for Construction:

The Department appreciates and shares the concerns of the Committee in ensuring that the grant funds will be put to their intended use. The Department is concerned, however, that the prohibition on using any grants to construct or modify facilities might unduly prevent the improvement of State and local command and control at emergency operation center facilities, as well as construction activities for critical infrastructure protection projects. The Department would therefore appreciate the opportunity to work with the Committee to establish a balance between blanket prohibitions and the unrestricted use of grant funds—perhaps the creation of certain specific limited exceptions to general prohibition.

6. "Risk-Based" grant standards:

The Department is encouraged that the Committee bill is largely consistent with the Administration's focus on terrorism preparedness. Should this focus of H. R. 3266 be maintained, the legislation should ensure that guidelines for allocation of homeland security-related federal assistance are fully consistent with the guidelines set forth in Homeland Security Presidential Directive (HSPD) 8. HSPD 8 establishes that preparedness assistance is intended to build capacity to address major events, especially terrorism, and not primarily to support existing capacity to address normal local first responder operations. The assistance will have a particular focus on terrorism risks while also basing allocations on population concentrations, critical infrastructure, and other significant risk factors, particularly terrorism threats. The Department believes the focus of this bill on terrorism preparedness will ensure that funds are allocated in a manner that best supports our efforts to prevent, mitigate, and respond to threatened terrorist attacks.

Mr. MITCHELL. Thank you. Generally, Mr. Chairman, the Department supports much of what is contained in H.R.—proposed in H.R. 3266 and in particular supports the bill's intent to further facilitate funding for our first responders. And the Department also acknowledges the Select Committee's work to address many of the Department's concerns prior to the actual reporting of the bill on April 2.

For example, the Department appreciates that, as reported, H.R. 3266 now requires that applications for regional funding, which is a key element of the bill under Section 1804, requires that States also receive those applications for review so that we can ensure that the proposals for those regional plans are consistent with the State's overall homeland security plan. Close coordination between the States, localities and regions is critical, and it also builds on the existing processes that ODP has established through the devel-

opment of both the State Homeland Security Grant Program and the Urban Area Security Initiative.

At the same time, Mr. Chairman, the Department believes that many of the H.R. 3266 concerns have already been addressed under the Homeland Security Act of 2002 or through departmental initiatives, either undertaken or already underway at this time. An example is we believe that the H.R. 3266, Section 1803 task force requirements duplicate efforts and responsibilities already existing under the Homeland Security Act, Section 871, Advisory Committee Provisions. Under this section, Secretary Ridge created the Homeland Security Advisory Council in 2003 as a means of providing the Department with a continuing source of advice and comment. The Department believes that an additional—it would be more appropriate and efficient to incorporate any additional roles and responsibilities, as outlined in the proposed legislation, task force provisions, to be integrated in the current system of this Council rather than create new advisory councils.

Similarly, the Department has taken other acts to address many of the other issues raised. Recently, the Department's Inspector General, DHS Inspector General, released a report titled, "An Audit of Distributing and Spending First Responder Grant Funds." The report examined how ODP processed and awarded funds. It also examined how a number of the States, once they received the awards, how they processed awards, obligated and distributed those funds.

The Inspector General concluded that ODP has been successful in developing a management program and that ODP reviewed and processed and awarded its grants in a timely and effective manner, and that was, again, in concert with deadlines and requirements, as prescribed by the Congress. The Inspector General also concluded that there are ways in which we, ODP, the States and locals can do better and do a better job of monitoring and tracking homeland security funds. Chairman Cox mentioned some of the confounding issues that are unique when we have 56 States and territories, and there are any number of combinations of things that affect how those funds are actually obligated or disbursed at the local level. Most importantly, the Inspector General concluded, and we agree, that it is desirable for States to distribute funds wisely and prudently via the strategic plans than to distribute the funds quickly.

Mr. Chairman, the Secretary believes that this whole funding process is important, and on March 15 of this year, Secretary Ridge announced the creation of the Homeland Security Funding Task Force. This task force comprised of Governors, mayors, county executives and representatives of tribal governments and is working—is looking and examining the DHS funding process for the State and local assistance programs to identify areas where there may be problems or areas where things are working. Obviously, there are some States and localities where the funds move in a very expeditious and efficient manner, so one of the outcomes of this assessment will be to identify best practices that we can then share with other State and local governments to help pass along innovative approaches to streamlining the grant process. The task force, Mr. Chairman, will provide a report to the Secretary by the

end of June, and we will be glad to share that report with this committee and other Members of Congress.

We have also initiated a number of other improvements prior to the release of the Inspector General's report. We greatly increased our communications to State and local officials. There is lots of information out there. Some of it—I think all well intentioned, but some of it is not always as accurate as we would like it. So we have expanded our outreach and engagement with State and local officials to ensure a better understanding of the requirements and activities that are their responsibilities under the grant program. Examples of that are our office along with the other Department components participates in biweekly conference calls with the State homeland security advisors. We have specific times when we present changes and challenges and have an opportunity to interact with those key State officials to answer questions that in many cases that is all it takes is a good question and a good answer. So that is one thing. We have done the same thing with the elected officials in the Urban Area Security Initiative. We have conference calls between our staff, the mayors, other State and local officials within those Urban Area Security Initiative to ensure that the program requirements and activities are well understood, and if there is any assistance necessary, our office is prepared to provide that.

Now, this past February, Secretary Ridge provided a comprehensive report on homeland security funds awarded, obligated and spent to the Governors of the States and the territories and the mayor of the District of Columbia, and we update these reports on a regular basis to keep the chief elected officials informed. Helps them better understand the unique challenges and processes underway in their States.

Mr. BILIRAKIS. Can you summarize, please?

Mr. MITCHELL. Yes, sir. One of the challenges we have that was mentioned today was the proliferation of programs, and the Secretary has established and notified the Congress the intention to consolidate grant programs within the Department of Homeland Security into the one-stop shop so the offices of ODP and the Office of State and Local Government Coordination will be consolidated, and we think that will also greatly improve our ability to link these programs and enable the Department to evaluate programs more accurately and exercise greater oversight.

And then, finally, HSPD-8 that you mentioned, Mr. Chairman, Secretary Ridge has been tasked by the President to develop national preparedness goals, improve delivery of Federal preparedness assistance to State and local governments and strengthen the preparedness capabilities of Federal, State and local governments. Inherent to the successful implementation of HSPD-8 is the development of clear, measurable standards, and this ongoing effort will address that and exceeds the Section 1802 essential capabilities provision from H.R. 3266 with a target of July 31 of this year for completion of a mission-essential task list for Homeland Security responsibilities.

Appreciate the opportunity to be here today, and I believe that concludes my statements, and I will be more than happy to answer questions.

[The prepared statement of Andrew T. Mitchell follows:]

PREPARED STATEMENT OF ANDREW T. MITCHELL, DEPUTY DIRECTOR, OFFICE FOR
DOMESTIC PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY

Chairman Bilirakis, Congressman Brown, and Members of the Subcommittee, my name is Andrew Mitchell, and I serve as the Deputy Director of the Department of Homeland Security's (DHS) Office for Domestic Preparedness (ODP). On behalf of Secretary Ridge, it is my pleasure to appear before you today to discuss the current status of ODP and other issues of critical importance.

On behalf of all of us at DHS, I want to thank you Mr. Chairman, and all the members of the Committee, for your ongoing support for the Department and for ODP. You and your colleagues have entrusted us with a great responsibility, and we are meeting that responsibility with the utmost diligence.

As you are all aware, ODP is responsible for preparing our Nation against terrorism by assisting States, local jurisdictions, regional authorities, and tribal governments with building their capacity to prepare for, prevent, and respond to acts of terrorism. Through its programs and activities, ODP equips, trains, exercises, and supports State and local homeland security personnel—our nation's first responders—who may be called upon to prevent and respond to terrorist attacks.

Mr. Chairman, ODP has established an outstanding track record of capacity building at the State, local, territorial, and tribal levels, by combining subject matter expertise, grant-making know-how, and establishing strong and long-standing ties to the nation's public safety community. Since its creation in 1998, ODP has provided assistance to all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories. Through its programs and initiatives ODP has trained 325,000 emergency responders from more than 5,000 jurisdictions and conducted more than 300 exercises. And, by the end of Fiscal Year 2004, ODP will have provided States and localities with more than \$8.1 billion in assistance and direct support.

Throughout its history ODP has strived to improve how it serves its State and local constituents. For example, in Fiscal Year 2003, application materials for the Department's State Homeland Security Grant Program—under both the Fiscal Year 2003 Omnibus Appropriations Bill, and the Fiscal Year 2003 Supplemental Appropriations Bill—were made available to the States within two weeks of those bills becoming law. Further, over 90 percent of the grants made under that program were awarded within 14 days of ODP receiving the grant applications.

During Fiscal Year 2004, ODP's record of service to the nation's first responders continues. As of this week, 52 of the 56 States and territories have received their Fiscal Year 2004 funding under the Homeland Security Grant Program. This includes funds to support State-wide preparedness efforts under the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the Citizen Corps Program. These awards represent over \$ 2.1 Billion in direct assistance. In total, \$2.2 Billion will be provided under this initiative.

Further, 48 of the 50 urban areas designated under the Fiscal Year 2004 Urban Areas Security Initiative (UASI program) have been awarded funding so far; the remaining are still under review. This represents \$631 Million in support to high-density population centers with identifiable threats and critical infrastructure. In total over \$670 Million will be provided to these areas. In addition, the Department has identified 30 of the nation's most used urban transit systems and will provide \$49 Million to enhance the overall security of these systems. To date, all 30 of these transit systems have received their Fiscal Year 2004 funds.

Much of how the States and territories will distribute and utilize Homeland Security Grant Program funds will be influenced by the results of the State Homeland Security Assessments and Strategies. As you know, each State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories were required to submit their assessments and strategies by January 31, 2004.

These assessments and strategies, Mr. Chairman, are critically important to both the States and the Federal Government. They provide a wealth of information regarding each State's vulnerabilities, capabilities, and future requirements, as well as each State's preparedness goals and objectives. They provide each State with a roadmap as to how current and future funding, exercise, training, and other preparedness resources should be directed and targeted, and they provide the Federal Government with a better understanding of needs and capabilities. I am happy to report that all assessments and strategies have been received and reviewed or currently are under review by an intra-DHS review board comprised of representatives from major Department components. Of those 56 strategies, 52 have been approved by the Department. The remaining four should be approved shortly.

During Fiscal Year 2005, ODP will continue to provide States and localities with the resources they require to ensure the safety of the American public. The funds

requested by the President for Fiscal Year 2005 will allow ODP to continue to provide the training, equipment, exercises, technical assistance, and other support necessary to better prepare our communities.

DHS's mission is critical, its responsibilities are great, and its programs and activities impact communities across the nation. We will strive to fulfill our mission and meet our responsibilities in an effective and efficient manner. And we will, to the best of our abilities, continue to identify where and how we can improve. Part of our responsibility, part of the Department's responsibility, Mr. Chairman, is the recognition that we can always improve what we do and how we do it. And we can never be too safe or too secure.

This critical mission was recognized by the Congress with the passage of the Homeland Security Act of 2002, and the creation of the Department of Homeland Security. And since the Department's creation, we have worked continuously with the Congress to determine how better to fulfill our common goal of a more secure America. One such Congressional effort is H.R. 3266, the "Faster and Smarter Funding for First Responders Act of 2003."

Introduced by Congressman Cox, H.R. 3266 is a major attempt to improve how the Department provides assistance to State and local emergency responders. Since the bill's introduction, the Department has worked with staff of the Select Committee on Homeland Security and, more recently, has provided the Select Committee a "white paper" containing observations and comments on the bill's provisions. With your permission, Mr. Chairman, I would like to share those views with this Subcommittee by offering a copy of that "white paper" for inclusion in the record.

Generally, Mr. Chairman, the Department supports much of H.R. 3266, and in particular supports the bill's intent to further facilitate funding for our first responders. The Department also acknowledges the Select Committee's work to address many of the Department's concerns prior to reporting the bill on April 2, 2004. For example, the Department appreciates that, as reported, H.R. 3266 now requires that applications for regional funding under the Section 1804 provisions be submitted to the state for review, and be consistent with the state's overall homeland security plan. Such close coordination between States, localities, and regions, is critical to an effective and rational distribution of homeland security resources, and is consistent with currently existing ODP funding initiatives, such as the Urban Areas Security Initiative or UASI Program.

At the same time Mr. Chairman, the Department believes that many of H.R. 3266's concerns have already been addressed under the Homeland Security Act of 2002, or through Departmental initiatives already underway. For example we believe that H.R. 3266's Section 1803 task force requirements duplicate efforts and responsibilities already existing under the Homeland Security Acts Section 871 advisory committee provisions. For example, under Section 871, Secretary Ridge created the Homeland Security Advisory Council in 2003 as a means of providing the Department with a continuing source of advice and comment. The Department believes that it would be more effective and efficient to incorporate additional roles and responsibilities as identified under H.R. 3266's task force provisions, into the Department's current system of task forces and advisory councils, rather than create new advisory mechanisms.

Similarly, the department has taken other action to address other issues raised and addressed by H.R. 3266. Recently the Department's Inspector General released a report titled "An Audit of Distributing and Spending 'First Responder' Grant Funds." That report examined how ODP processed and awarded first responder grant funds during Fiscal Years 2002 and 2003. It also examined how several of the States, once awards have been received, obligate and distribute those funds.

We at ODP welcomed the Inspector General's scrutiny, and now that the report is complete, we see this as an opportunity to validate those things we are doing well, and to identify and act upon those things we need to do better. With your permission, Mr. Chairman, I would like to submit a copy of the report for inclusion in the record.

Overall Mr. Chairman, the Inspector General concluded that ODP has been successful in the development and management of its grant programs, and that ODP has assessed, processed, and awarded its grants in a timely and effective manner. At the same time the Inspector General concluded that there are several ways in which ODP could better assist States and local communities in distributing and dedicating homeland security funds, as well as monitoring and tracking these funds once they have been awarded. The Inspector General concluded that various impediments to the timely distribution of funds at the State and local level should be addressed, and while some of these impediments may be unavoidable, others could be reduced. Most important the Inspector General concluded, and we at ODP agree,

that it is more desirable for States to distribute funds wisely and prudently, than to distribute funds in haste.

Among the report's recommendations were:

- For ODP to institute more meaningful reporting by the States so that ODP can track progress more accurately, both in their distribution of funds and in building their preparedness capabilities, and to better assist States when necessary.
- For ODP to improve its communications with State and local jurisdictions in order to keep them better informed as to program requirements and opportunities for assistance.
- For ODP to accelerate the development of federal guidelines for first responder preparedness, including capability levels, equipment, training, and exercises, in order to enhance the ability of States and local jurisdictions to develop preparedness strategies and target resources.
- For ODP to work with State and local jurisdictions to better identify impediments at the State and local levels to the timely distribution of funds, identify "best practices," and make recommendations to overcome these impediments.

I am happy to report, Mr. Chairman, that ODP, in consultation with the Secretary and other Department components, is already addressing many of these recommendations. For instance, for Fiscal Year 2004, ODP is implementing new reporting and monitoring guidelines. These new procedures will enable ODP to better track each State's progress in allocating funds and meeting the objectives outlined in their 2003 State Strategies and Assessments. Further, prior to the start of Fiscal Year 2005, ODP will establish a Dedicated Audit Team in order to more closely audit grant expenditures and better ensure compliance with program requirements.

Also during the past year, ODP has greatly improved its communications with State and local officials to assist them to better understand program requirements and better plan for the use and allocation of program funds. As an example, ODP, along with other Department components, participates in bi-weekly conference calls with the various State homeland security directors. These conference calls provide direct access among Federal and State representatives to facilitate the quick flow of information. Similarly, ODP, as part of its administration of the Fiscal Year 2003 UASI Program, instituted conference calls among ODP staff and mayors and other State and local officials representing the various urban areas comprising the UASI sites. Again the use of conference calls expedited and facilitated the exchange of information and ideas among the parties.

Further Mr. Chairman, this past February, Secretary Ridge provided each State's governor with a report on homeland security funds awarded, obligated, and spent within the State. These reports are being updated on a regular basis. Keeping the governors informed in this manner has enhanced their ability to maintain oversight over these monies. These efforts are in addition to ODP's continuing efforts to provide customer service, including the ODP Helpline, and technical assistance and monitoring visits by ODP staff to State and local jurisdictions. Within the past six months, staff from ODP's State and Local Management Division, the ODP component responsible for the administration of the homeland security grant funds, have made 22 monitoring trips and, in the last 12 months, have made 300 technical assistance trips to State and local jurisdictions.

ODP is also continuing its efforts to develop preparedness standards and to establish clear methods for assessing State and local preparedness levels and progress. As you will recall Mr. Chairman, on December 17, 2003, the President issued "Homeland Security Presidential Directive (HSPD)-8." Through HSPD-8, the President tasked Secretary Ridge, in coordination with other Federal departments and State and local jurisdictions, to develop national preparedness goals, improve delivery of federal preparedness assistance to State and local jurisdictions, and strengthen the preparedness capabilities of Federal, State, territorial, tribal, and local governments. HSPD-8 is consistent with the broader goals and objectives established in the President's National Strategy for Homeland Security issued in July, 2002, which discussed the creation of a fully-integrated national emergency response capability. Inherent to the successful implementation of HSPD-8 is the development of clear and measurable standards for State and local preparedness capabilities.

The standards that will result from HSPD-8 implementation build on an existing body of standards and guidelines developed by ODP and other Federal agencies to guide and inform State and local preparedness efforts. Since its inception ODP has worked with Federal agencies and State and local jurisdictions to develop and disseminate information to State and local agencies to assist them in making more informed preparedness decisions, including capability assessments, preparedness planning and strategies, and choices relating to training, equipment, and exercises. Again, with your permission Mr. Chairman, I would like to submit for inclusion in

the record, a summary of standards and guidelines issued by ODP over the last several years.

Earlier this year, the Secretary delegated to ODP the responsibility for the implementation of HSPD-8. This designation by the Secretary is consistent with ODP's mission, as provided under the provisions of the Homeland Security Act, to be the primary federal agency responsible for the preparedness of the United States for acts of terrorism. And ODP, together with Secretary Ridge, other Department components, Federal agencies, and State and local governments, firmly believe that the successful implementation of HSPD-8 is essential and critical to our Nation's ability to prevent, prepare for, and respond to acts of terrorism. In March, the Secretary approved these key items: first, a strategy for a better prepared America based on the requirements of HSPD-8; second, an integrated, intra- and inter- governmental structure to implement HSPD-8; and third, an aggressive timeline for achieving HSPD-8's goals and objectives. Implementation of HSPD-8 involves the participation of Federal, State, and local agencies, and, among other things, will result in the development and dissemination of clear, precise, and measurable preparedness standards and goals addressing State, local, and Federal prevention and response capabilities.

Further, I would like to reemphasize the importance of ODP's State Homeland Security Assessments and Strategies that were submitted to ODP by the States and territories this past January. And, it is important to note that this is not the first time States have been tasked with providing assessments. The information contained in these reports provides critical data describing State and local capabilities and requirements for use by both the States and the Federal Government. This data provides a critical benchmark from which ODP can assess both past and future progress in their development of preparedness capabilities. The current assessments and strategies are being compared to the first group of assessments and strategies submitted in Fiscal Year 2001. Then, the current group of assessments and strategies will provide a mark from which ODP can compare future assessments and strategies. In addition, the current assessments and strategies will help guide ODP's decisions regarding State and local training, equipment, planning, and exercise requirements.

Also critical to the implementation of HSPD-8 is the improved delivery of homeland security assistance, including homeland security funding to State and local governments. This too was examined by the DHS Inspector General's report, which concluded that although ODP has been able to distribute funds to States in a timely manner, there were some impediments that slowed the further distribution of funds from States to local jurisdiction. These impediments did not exist in every State or in every jurisdiction, and, as the Inspector General noted, some impediments are unavoidable, and some can be corrected. For example, some delays in the distribution of homeland security funds can be linked to State and local procurement laws and requirements. Other delays resulted from the local planning process and the need to form consensus across multiple jurisdictions. Some delays were the result of deliberate decisions by State and local leaders who chose to spend more time planning rather than to spend funds quickly. Yet, despite these difficulties, ODP and the Department are committed to finding ways to further improve the distribution of homeland security funds.

To that end Mr. Chairman, on March 15, 2004, Secretary Ridge announced the creation of the Homeland Security Funding Task Force. This task force—chaired by Massachusetts Governor Mitt Romney and co-chaired by Akron Mayor Donald Plusquellic, and comprised of several governors, mayors, county executives, and a representative of tribal governments—will examine DHS' funding process for State and local assistance to ensure that DHS funds to the Nation's first responders move quickly and efficiently. It will also identify "best practices" in an effort to offer solutions to both the Department and State and local jurisdictions. By directly involving the States, territories, local communities, and tribal governments, this task force will provide an ongoing source of information to assist DHS and States and localities to do a better job. And, the formation of this task force underscores the Secretary's commitment to a partnership between the Federal Government and its State and local counterparts, and his approach to homeland security as "One Mission, One Team." This task force, Mr. Chairman, will provide a report to the Secretary by the end of June, which we will share with the Congress.

An additional and important step toward improving how homeland security assistance is provided to States and local jurisdictions is contained in the President's Fiscal Year 2005 budget request. As part of the effort to improve the distribution of homeland security funds, the Administration has requested that the Secretary be provided increased flexibility under the distribution formula for ODP's Homeland Security Grant Program as contained in Section 1014 of the USA PATRIOT Act.

This request is consistent with the Department's long-standing position that the PATRIOT Act formula be changed.

Our request to change the formula is designed to ensure that we can target Federal dollars in a manner consistent with protecting the nation in the most efficient and effective manner. It is designed to enable the Secretary to consider critical factors such as threats and vulnerabilities—factors this Committee has recognized as important. This increased flexibility will allow the Secretary to move Federal resources to respond to changes in vulnerabilities and threats.

This more nuanced approach does not mean, however, that minimum or base funding levels for the States and territories will be eliminated. As you are aware, Secretary Ridge has consistently stated that a minimum amount of funds should be provided to all States and territories, and that for the nation to be secure, all States and territories must have the resources to address their particular and unique security needs.

Secretary Ridge is also taking steps to ensure that its staff and program offices can more efficiently support States and localities. On January 26, 2004, the Secretary informed the Congress of his intention to consolidate ODP with the Office of State and Local Government Coordination to form a new office—the Office for State and Local Government Coordination and Preparedness.

This consolidation is in direct response to requests from the nation's first responders to provide the emergency response community with a "one-stop-shop" that is a central focal point for grants, assistance, and other interactions with the Department. Further, this consolidation places 25 varied State and local assistance programs and initiatives within one office to ensure simplified and coordinated administration of these programs. Finally, this consolidation also will eliminate the duplication across program lines and heighten the complementary and synergistic aspects of these programs, and, by linking these programs to the State strategies and assessments, maximize their ultimate impact on States and localities.

At the same time, grouping these programs under one consolidated office ensures that the grants administration staffs and a limited number of program subject matter experts who guide these programs will work together, share their expertise, and achieve the Department's goal of a better prepared America. The consolidation will enable the Department to evaluate programs more accurately, exercise greater Federal oversight, and ensure the government-provided resources are dispersed quickly and are used to maximum efficiency. This decision will benefit States and localities by providing them with a unified and coordinated means of assistance and support. It also provides a platform to ease coordination with other departments and agencies, as required in HSPD-8.

In closing Mr. Chairman, let me re-state Secretary Ridge's commitment to support the Nation's State and local emergency response community, and to ensure that America's first responders receive the resources and support they require to do their jobs. This concludes my statement. I am happy to respond to any questions that you and the members of the Committee may have. Thank you.

[The OIG Audit, OIG-04-15, is available at the OIG web site, www.dhs.gov.]

Mr. BILIRAKIS. Thank you, sir, and there will be questions.

Mr. Raub, you are on, sir.

STATEMENT OF WILLIAM F. RAUB

Mr. RAUB. Thank you, Mr. Chairman, members of the subcommittee. I appreciate this opportunity to share the Department's views on H.R. 3266, the proposed legislation for faster and smarter funding for first responders. I will present a summary statement now, and with your permission, Mr. Chairman, will submit my full statement for the record.

H.R. 3266 seeks to foster strong, seamless coordination among agencies of the Federal Government and between the Federal Government and our State and local partners. HHS shares this goal. We place a high priority on strong, sustained collaboration with our colleagues in DHS and other agencies and will continue to do so.

At the same time, we are concerned that H.R. 3266 neither inadvertently alter the authorities of the Department of Health and Human Services nor impede its ability to perform its responsibil-

ities under law. H.R. 3266 contains several provisions that overlap with mandates of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which authorized most of the bioterrorism, preparedness and response programs within HHS, particularly those that address State and local readiness. In particular, I will address new Sections 1802, 1803 and 1806 of the Homeland Security Act of 2002, as they would be added by H.R. 3266.

New Section 1802 directs the Secretary of Homeland Security to establish clearly defined, essential capabilities for State and local government preparedness for terrorism. New Section 1803 specifies the means to this end: The DHS Task Force on Essential Capabilities for First Responders. Further, H.R. 3266 defines first responders as emergency response providers, and the latter are defined in the Homeland Security Act of 2002 to include emergency medical personnel and hospital emergency personnel as well as State, Federal, local emergency public safety, law enforcement, emergency response and related personnel agencies and authorities.

These provisions cause concern as they are stated, because the Public Health Security Act created the Working Group on Bioterrorism and other Public Health Emergencies and among other things charged it to provide an, “assessment of the priorities for an enhancement of the preparedness of public health institutions, providers of medical care and other emergency service personnel, including fire fighters to detect, to diagnose and respond, including mental health response for a biological threat or attack.”

Thus, without further clarification or delineation of functions, H.R. 3266 may engender activities that duplicate statutorily mandated initiatives of HHS. As a potential remedy, HHS recommends that the proposed legislation be revised to include language that would identify the Secretary of Health and Human Services explicitly among those with whom the Secretary of Homeland Security must consult when establishing essential capabilities.

New Section 1806 directs the Secretary of Homeland Security to support the development of, promulgate and update a series of national voluntary consensus standards for first responder equipment that is to be supported by the Homeland Security grants envisioned in the bill. Under the Public Health Security Act and other relevant statutes, HHS provides funds to States and other eligible entities for public health preparedness and hospital readiness, including the acquisition of certain equipment. Some of this equipment appears to fall within H.R. 3266’s definition of first responder equipment—for example, equipment for biological detection and analysis, chemical detection and analysis, decontamination and sterilization, personal protective equipment, respiratory protection, interoperable communications and data networks. Further, the HHS Working Group created by the Public Health Security Act is tasked with development of shared standards for equipment to detect and protect against biological agents and toxins.

HHS suggests two candidate remedies. First, for the required categories of equipment that the Secretary of Homeland Security is directed to consider for the development of national voluntary consensus standards, we recommend modifying the language to circumscribe the type of equipment as first responder equipment in-

tended for use in the field. This would eliminate coverage of equipment used in hospitals and other facilities, such as biological safety cabinets in clinical laboratories and mass spectrometers in chemical laboratories.

Second, to increase the likelihood that DHS and HHS will develop a set of mutually consistent standards for essentially the same equipment, we recommend that H.R. 3266 be revised to state that the two departments shall develop standards jointly for equipment that will be used by both DHS-funded first responders and HHS-supported State and local health departments, hospitals and supporting health care entities.

New Section 1806 also calls upon the Secretary of Homeland Security to support the development of, promulgation of, and regularly update national voluntary consensus standards for first responder training. Under its existing authorities and appropriations, HHS provides substantial funding for training and education efforts at the State and local levels. Without exception, every jurisdiction funded by HHS for bioterrorism preparedness and response is planning and implementing education and training activities, some of which are carried out jointly with traditional first responders.

Further, the statutorily mandated HHS Working Group also was tasked with the development and enhancement of the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between, No. 1—local fire fighters, ambulance personnel, police and public security officers or other emergency response personnel, including private response contractors, and, No. 2—hospitals, primary care facilities and public health agencies.

Preparedness for terrorism or other emergencies demands that DHS and HHS provide guidance to our respective awardees that is consistent and mutually reinforcing. To that end, we recommend the insertion of language in H.R. 3266 requiring the Secretary of Homeland Security to consult with the Secretary of HHS in requiring the Task Force on Essential Capabilities to coordinate with the Working Group on Bioterrorism, to ensure that, to the extent possible, the development of national voluntary consensus standards for both equipment and training is a collaborative and coordinated process.

Thank you, Mr. Chairman. I will be pleased to respond as best I can to your comments and questions.

[The prepared statement of William F. Raub follows:]

PREPARED STATEMENT OF WILLIAM F. RAUB, PRINCIPAL DEPUTY ASSISTANT SECRETARY, OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good afternoon, Mr. Chairman and members of the Subcommittee.

I am William F. Raub, Principal Deputy Assistant Secretary for Public Health Emergency Preparedness, at the Department of Health and Human Services (HHS). I welcome this opportunity to share the Department's views on H.R. 3266, the proposed legislation for "Faster and Smarter Funding for First Responders," introduced by Congressman Christopher Cox, Chairman of the House Select Committee on Homeland Security, as reported by that Committee.

Before I provide the Department's comments on the contents of the bill, I want to take this opportunity to underscore the many collaborative and coordinated ac-

tivities that HHS has undertaken with the Department of Homeland Security over the last year. Whether the issues deal with state and local emergency preparedness, the planning for and deployment of the Strategic National Stockpile, the development of medical countermeasures under Project BioShield, or the development of the National Response Plan and the National Incident Management System, our two Departments have worked diligently to keep each other apprised and involved. The relevant personnel in the two Departments (myself included) have strived on an ongoing basis to coordinate our respective activities at both the policy and planning level as well as at the implementation and deployment level. This approach lays the foundation not only for enhancing interagency coordination but also for creating a more robust and harmonized response capacity at the state and local levels.

H.R. 3266 contains several provisions that overlap with mandates of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (referred to hereafter as the Public Health Security Act), the legislation that authorizes most of the bioterrorism preparedness and response programs within HHS, particularly those that address state and local readiness. In particular, I will address new sections 1802, 1803 and 1806 of the Homeland Security Act of 2002, as would be added by H.R. 3266.

In new section 1802, the Secretary of Homeland Security is directed to “establish clearly defined essential capabilities for State and local government preparedness for terrorism.” The bill language defines “essential capabilities” as *“the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.”*

Further, HR 3266 defines “first responders” as “emergency response providers” and the latter are defined, in the Homeland Security Act of 2002, to include emergency medical personnel and hospital emergency personnel as well as Federal, State, and local emergency public safety, law enforcement, emergency response and related personnel, agencies, and authorities. Thus the cross-over of the definition of “first responders” to include what are traditional health care workers may create a situation whereby the DHS Task Force on Essential Capabilities for First Responders (to be established under Section 1803) will be undertaking an activity, i.e., establishing “essential capabilities,” for a community of health providers that generally look to HHS to establish standards and priorities for public health emergency preparedness.

Furthermore, there is currently a Working Group on Bioterrorism and Other Public Health Emergencies (referred to hereafter as the Working Group), authorized by the Public Health Security Act, that is to provide an *“assessment of the priorities for and enhancement of the preparedness of public health institutions, providers of medical care, and other emergency service personnel (including firefighters) to detect, diagnose, and respond (including mental health response) to a biological threat or attack”* (see section 319F(a)(1)(F), as added by section 108 of the Public Health Security Act). It is clear that, without further clarification and delineation of functions in H.R. 3266, the bill may engender activities that duplicate statutorily mandated initiatives of HHS.

To advise the Secretary of Homeland Security on establishing essential capabilities for terrorism preparedness at the state and local level, the Task Force on Essential Capabilities is expected to produce a draft report of recommendations *“for the essential capabilities all State and local first responders should possess, or to which they should have access, to enhance terrorism preparedness.”*

Although the proposed legislation does not identify public health professionals and health care providers as first responders, the bill does identify such individuals as members of the Task Force. We assume that, as members of the Task Force, these public health and medical professionals would contribute to the identification of “essential capabilities for state and local preparedness for terrorism.” We further assume that their contributions would most likely be in their areas of expertise and experience.

At a time in which states and local jurisdictions are looking to the Federal Government to provide clear and explicit guidance in all areas of terrorism preparedness and response, I cannot overemphasize the importance of providing clear and consistent federal recommendations and guidelines. We recommend, therefore, that the proposed legislation be revised to include language that would explicitly identify the Secretary of Health and Human Services among those with whom the Secretary of Homeland Security must consult when establishing “essential capabilities.”

New section 1806 as added by of H.R. 3266 directs the Secretary of Homeland Security to “support the development of, promulgate and update” a series of “national voluntary consensus standards” for first responder equipment that is to be supported by the homeland security grants envisioned in the bill.

Currently, funds awarded to the states by HHS for public health preparedness and hospital readiness may be applied to the purchase and acquisition of certain equipment. Some of this equipment appears to fall within H.R. 3266's definition of first responder equipment; for example, equipment for biological detection and analysis, chemical detection and analysis, decontamination and sterilization, personal protective equipment, respiratory protection, interoperable communications, and data networks. Furthermore, the HHS Working Group is currently tasked with "development of shared standards for equipment to detect and to protect against biological agents and toxins."

For the "required categories" of equipment that the Secretary of Homeland Security is directed to consider for the development of national voluntary consensus standards, we recommend modifying the language to circumscribe the type of equipment as "first responder equipment *intended for use in the field*." This would eliminate coverage of equipment used in hospitals and other facilities, e.g., biological safety cabinets in clinical laboratories and mass spectrometers in chemical laboratories.

H.R. 3266 does not include a definition for "national voluntary consensus standards." Consequently, it is not clear what is meant or covered by this phrase. Moreover, will these standards be truly voluntary, that is to say, are they to be adopted at the discretion of the states or local jurisdictions? If so, this may create a number of technical as well as compliance problems for the user communities.

To maximize the likelihood that DHS and HHS will develop a set of mutually consistent standards for essentially the same equipment, we recommend that this provision of the bill be revised to state that the two Departments shall collaborate in jointly developing standards for equipment that will be used by both DHS funded first responders and HHS-supported state and local health departments, hospitals and supporting health care entities.

New section 1806 also calls upon the Secretary of Homeland Security to support the development of, promulgate and regularly update national voluntary consensus standards for first responder training. Within its own programs, HHS continues to work towards ensuring the most effective application of funding to training and education efforts at the state and local levels. Without exception, every jurisdiction funded by HHS for bioterrorism preparedness and response is planning and implementing education and training activities, some of which are carried out jointly with traditional first responders.

In this arena, the HHS Working Group is also tasked with the "*development and enhancement of the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between (i) local firefighters, ambulance personnel, police and public security officers, or other emergency response personnel (including private response contractors); and (ii) hospitals, primary care facilities, and public health agencies.*" This area of overlap between DHS and HHS provides a clear opportunity for coordination and collaboration between the two Departments. Since a response to any kind of terrorist attack will require a seamless response among all emergency responders, joint training and exercises involving public safety and law enforcement personnel as well as public health and health care workers in a variety of scenarios are both appropriate and feasible.

To ensure the effectiveness of such joint efforts, it is essential that the national voluntary consensus standards reflect the appropriate roles of all response personnel. To this end, the development of these standards should involve not only DHS and HHS but also relevant professional organizations (both those identified in new section 1806 and the American Hospital Association, the Joint Commission on Accreditation of Healthcare Organizations, and the American College of Emergency Physicians), government agencies such as the Occupational Safety and Health Administration, and others.

It is critical that, in supporting the enhancement of state and local emergency response capabilities and capacities, DHS and HHS provide guidance to their respective awardees that is mutually consistent and reinforcing. To that end, we recommend the insertion of language in HR3266 requiring the Secretary of Homeland Security to consult with the Secretary of HHS and requiring the Task Force on Essential Capabilities to coordinate with the Working Group on Bioterrorism to ensure that, to the extent possible, the development of "national voluntary consensus standards" for both equipment and training is a collaborative and coordinated process. This would minimize, if not eliminate, any duplication of effort and inconsistency in recommendations.

Given the mission of the Department of Homeland Security and the goals of the HHS bioterrorism preparedness and response programs, there are naturally a variety of opportunities for collaboration. We have taken advantage of many of these.

At the same time we are mindful of the mandates of our own authorizing legislation, the Public Health Security Act, which directs HHS to carry out a broad array of tasks intended to prepare the nation to respond more effectively to bioterrorism, other outbreaks of infectious diseases and other public health threats and emergencies. Thus language in H.R. 3266 should not alter, or impede the ability to carry out, the authorities of the Department of Health and Human Services to perform its responsibilities under law.

Thank you. I will be glad to respond to any questions that the Subcommittee may have.

Mr. BILIRAKIS. Mr. Raub—well, first, let me ask both of you, I mean it is obvious that close contact, close coordination, a close relationship, if you will, among DHS and HHS is critical. Would you both agree?

Mr. RAUB. Yes, sir.

Mr. BILIRAKIS. Has that been—can we say that that has taken place, that you all have gotten along well, you have coordinated? Any problems there?

Mr. MITCHELL. No, sir.

Mr. BILIRAKIS. None whatsoever.

Mr. MITCHELL. It has been very positive.

Mr. RAUB. And we work hard at it, sir.

Mr. BILIRAKIS. And you work hard at it. That is good to hear. Mr. Mitchell, your participation in the Section 108 Working Group, has that been extensive?

Mr. MITCHELL. Well, our office is not involved in that, but it is my understanding that representatives from FEMA are the primary DHS representatives. There are DHS participants in that process, sir.

Mr. BILIRAKIS. Well, I just want to be sure that—and forgive me, I don't mean to slight either one of your groups, but one of the problems with Capitol Hill, and I have been here for 22 years, is everybody seems to be concerned about their turf, you know, the damn turf battles that takes place here in Congress, in God knows, so very much, and the stakes are awfully high when it comes to homeland security, and I would hope that that is not a problem between you two.

Mr. Raub, have you had an opportunity or what kind of an opportunity has HHS had as far as input into the preparation of this legislation is concerned?

Mr. RAUB. This was our first opportunity, sir, with respect—

Mr. BILIRAKIS. Your first opportunity?

Mr. RAUB. This was the first I had seen it, and we are appreciative of the committee for giving us that opportunity.

Mr. BILIRAKIS. Okay. You have made many recommendations. I don't know whether that can be interpreted as finding many faults with the legislation, but you have made plenty of recommendations.

Mr. RAUB. We didn't believe we were finding fault as such, sir. What we tried to recognize is where, on its face, there seemed to be an overlap.

Mr. BILIRAKIS. I think, generally speaking, overlap is bad in any area, but is it bad in this area? I mean there are areas of overlap.

Mr. RAUB. It is not bad so long as we are each aware of the other's activities and we can ensure that each is making the appropriate contribution to the other. We flagged the overlap to the ex-

tent that if one or the other of us were to proceed in ignorance of the other's authorities, we could very well be doing the same thing twice or worse address the same issue and produce slightly different responses. Both might be valid, but they would be confusing, at best, especially to our partners and State and local communities. So we flag those things, not in any sense in opposition to the legislation, but rather, to get the kind of clarification to ensure that we each know what our respective responsibilities are.

Mr. BILIRAKIS. Mr. Mitchell, anything you want to add to that?

Mr. MITCHELL. Well, I think there are—like I said, there are ongoing activities, particularly the HSPD-8 implementation where a number of these issues are going to be resolved at the Secretary level, at the Assistant Secretary level as well as the operational level. We have a very aggressive schedule and plan for the implementation of HSPD-8, and I can assure you, sir, that HHS and all the other key Federal partners will be involved in that probably more than they would choose to be, but it is—I think it is indicative of the type of relationship we have. It is a massive challenge we have on both sides, and we look forward to continuing that active partnership.

Mr. BILIRAKIS. I sort of wish Mr. Cox had sort of hung around here where he could maybe go into some of these areas with you, and he hasn't done that up to now, apparently. How about the staffs? How much time have staffs worked together on this legislation?

Mr. MITCHELL. We have spent a fair amount, and we have had—

Mr. BILIRAKIS. Fair amount?

Mr. MITCHELL. Yes, sir, that is with staff.

Mr. BILIRAKIS. How about with HHS, do you know?

Mr. MITCHELL. No, sir, not on this particular bill, no.

Mr. BILIRAKIS. Okay. Are we doing something here, the old doctor's thing, do no harm? Are we doing something here that might be harmful rather than helpful or might we be doing something here that might be harmful?

Mr. MITCHELL. I think the intent of this legislation—I think we agree that there are things we can do better. I think just the pace of activities that as the proposed legislation has evolved and reached the point where it is a lot of things have been occurring simultaneously that, as we said earlier, a lot of the problems identified and some of the solutions there are already a number of activities underway in DHS that we think probably adequately address some of the concerns raised. But we certainly don't—we have no argument or concern about the purpose of the bill, which is to make it more efficient. We must support that, the threat base, changing the funding approach.

The Secretary has been on record for quite a long time saying we need to revisit how we're going to allocate these funds. Currently, we have two grant programs, the Homeland Security Grant Program, which is distributed under the Patriot Act formula, as Chairman Cox described, but we also have the Urban Area Security Initiative, which is the Secretary has the discretion as Congress has been kind enough to provide that where we look at threat presence of critical infrastructure, population density to determine metro-

politan areas that are going to receive funding specifically based on those three criteria.

So we think we have kind of the right balance in current programs that address that. This is addressing that maybe in a more consolidated way, and for our office I will certainly commit to working with the Congress as we go through and refine these. I think there are some things in here that we would support, and I think the Department generally supports—like I said, supports the overall thrust.

Mr. BILIRAKIS. Mr. Raub, honestly, I take all your recommendations in a positive vein, so please don't think to the contrary. But do you have a very brief response to my question about are we doing harm or might we be doing harm?

Mr. RAUB. I don't believe there is anything inherent in the bill that would result in harm. The concern we raised is that to the extent we were duplicating activity unnecessarily, we are not getting as much bang for the buck as we should. To the extent we address essentially the same problem independent of each other without being aware of what the other is doing, we could produce something that is inefficient or confusing to our State and local partners. And that is harmful, but easily avoided with the types of recommendations we have specified.

Mr. BILIRAKIS. Well, I am going to yield to Dr. Norwood now, but let me just say to you that we are planning to go forward with this legislation because we have a piece in the overall picture here. So any help that you can be, well, from both of you, obviously, but HHS in particular since we have the direct jurisdiction over HHS. So I can't tell you when markup might take place. We have to complete our work by June 7 on this, so markup would be sometime downstream here. But if there are areas here that bother you from a constructive vein, we would welcome any comments from you and what not. You have already made plenty but anyhow just inputs would be very helpful.

Mr. RAUB. Okay. Thank you, Mr. Chairman. We will be pleased to assist the subcommittee in any way we can.

Mr. BILIRAKIS. Thanks, Mr. Raub. Dr. Norwood.

Mr. NORWOOD. Thank you, Mr. Chairman. Let me start by saying, Mr. Raub, my tendency is to totally agree with most of what you have said. I think there can be great harm here if we aren't very, very careful. There are three parts, Mr. Mitchell, you said to this, and one is obviously to prevent a terrorist act, that is part of your job, be prepared and, last, to respond. And I think probably our committee is most interested in the respond part, because that is where patients are, that is where the health part of this comes in. And, frankly, I just don't—I can't imagine the mess it would make if you, as Homeland Security, gets into this respond part, this health part too very deeply without being on the same page with HHS. If each of you come out with different sets of standards and guidelines and equipment selection, it is going to be a worse disaster out there than it already is in our effort as a Nation to try to get ready for this.

Let me ask either one of you, we have something like 40,000 health care providers in my State, in Georgia. Where would I send them for training to respond to a nuclear attack or a biochemical

attack? Where would they go today to get training so that—this reminds me a little bit—I want to come back, I still want an answer to that question, but it reminds me a little bit of what happens during a disaster, whether it be a damn breaking, whether it be Chernobyl, whether it be a MASH unit in the middle of the war. Everybody has to do a lot of things. Nobody gets to just do their little specialty area because there are so many casualties.

My point is we may have the greatest pediatricians in the world in Georgia, but they probably haven't done trauma medicine lately. They probably haven't had to deal with a burned patient from radiation. Now, my question is where I would say to them today to go, where could we get them up to speed should we have a disaster?

Mr. RAUB. Mr. Chairman, I would be glad to provide you for the record, a list of institutions that are funded by our Health Resources and Services Administration for two aspects of training of health care providers in these areas. One is a set of institutions providing training programs, the other is a set developing curricula with a view to—

Mr. NORWOOD. Well, just tell me one or two of them.

Mr. RAUB. I don't have the list memorized, sir, but there are a number of major academic health centers.

Mr. NORWOOD. I am pretty well aware of it, because the Medical College of Georgia is one of them, and that is why I am sort of interested in this training aspect. So is Eisenhower Army Hospital involved in this. I am back to, though, there isn't really anywhere right now. You can get pieces and parts and it is not standardized in any way. A doctor in South Carolina may go to a different institution than a doctor in Georgia, yet the disaster may be right on the line. The equipment is not necessarily standardized in either way, particularly equipment used to treat patients, which to me that sort of falls in your bailiwick working with Homeland Security so you guys don't run us off in two different directions.

Mr. RAUB. Mr. Congressman, you are correct. The array of training programs offered are not yet comprehensive in the way they should be.

Mr. NORWOOD. No. They are not accredited either.

Mr. RAUB. And we have not addressed the standards issue primarily because a year ago when this funding effort started, we didn't feel we had a sufficient knowledge base or a sufficient set of materials upon which we could put a standard label. And that was one of the reasons for directing a substantial fraction of the funds to curricula development.

One of the most important elements that is developed is—as we look to the training for health care professionals—it is necessary that we provide them the relevant information about, let us say, anthrax or smallpox or plague, the characteristics of the disease, but we have also realized we need to provide them training about incident management, their relationships with the fire department, with the police department.

And, increasingly, the guidance we are sending out for the training says go beyond the medical subject matter into the procedural and operational response material. Now, for many of our health departments and for many of our hospitals, that is totally new. It is new terrain, we did not have off-the-shelf materials we could sim-

ply plug in. Some of this curriculum development activity is designed to develop those in the direction that you are urging us to go.

Mr. NORWOOD. And I want you to understand I am not finding fault. I can see why in this short length of time we might not be prepared. Part of the training needs to be for the policemen or the firemen to treat a patient too. I mean they can learn emergency things to keep people alive or to triage a unit. There is so much, so many people out there who we all are calling first responders that in a real disaster they are all going to be trying to keep people alive. All I want to do is encourage you that training has got to be put on the fast track. So you know how I envision this thing. You can, as you pointed out, have university system and others who can train 5,000 people a year who can go back home, wherever home was, and they can train their police department, they can train their—that is the only way we are going to get this spread out across the country so these people we refer to as first responders can actually—a fireman is going to have to do a lot more than put a fire out, it is as simple as that, and I encourage you guys to get together, one, and make sure that you are all saying the same thing. The worst thing you can do is tell a university or a fire department that here are two different ways to go, “Which way do we do, what kind of equipment do we buy, you said one, you said another.” That is disastrous. And, second, put this thing on a fast track.

Mr. MITCHELL. Mr. Congressman, we have an ongoing relationship with HHS, CDC and others. We have a pretty comprehensive set of training courses. We have about 43 courses that we currently provide.

Mr. NORWOOD. Pardon me for interrupting, but didn’t you tell me you just saw this bill? Mr. Raub?

Mr. RAUB. Yes, sir.

Mr. NORWOOD. That isn’t exactly working with them, pal.

Mr. MITCHELL. Concerning this bill?

Mr. NORWOOD. Yes. This bill is going to very much affect the outcome of how these two departments do things. I mean it looks like to me you guys would sit down and say, “Maybe we had better check in with HHS, health is their bailiwick, and talk to them a little bit before we start suggesting standards for emergency rooms and hospitals and types of equipment.”

Mr. BILIRAKIS. Let us ask the question, if you will yield a moment, Doctor, have you had that opportunity? I asked the question earlier on, Mr. Raub, have you both had the opportunity to sit down and to discuss what this bill is intended to do or to fill in gaps, areas—I mean we are talking about a new concept here, homeland security. Brand new, it is far from perfect, maybe it will never get to be perfect, nothing ever is, I suppose. So we are learning as we go along. We are learning as we go along here, and there are things we probably can fix that you have experienced that may not even be in this legislation because you haven’t gotten, I think—one of the reasons, one of the biggest reasons would be because you haven’t gotten your heads together. And I don’t know whether fault lies with you in that regard, but please proceed, Doctor.

Mr. NORWOOD. Well, if you need statutory authority, which somebody feels you do, and I suspect as you, in order to get this thing working this right, I am just saying you guys have got to work together and you can't—I don't see how you walk in with a bill and say, "Boy, we have worked this thing over really well and we have solved all the problems," without the Secretary of HHS ever having had some input into this bill. And I know he would like to, because I heard you give out a number of recommendations that you were suggesting for this bill, of which many, first blush, please understand, I mean we are all learning here as we go, but first blush some of the things, Mr. Raub, you said made sense to me.

And I just would like—at the end of the day, guys, not to speak of the unbelievable loss of taxpayer dollars, but there will be a great deal of confusion. This would not be the first time a Member of Congress was complained to from constituents at home saying, "Two different agencies are telling me to do two different things, and I don't know what to do." And all I am asking you—I know how fast all this is hitting you, and I am not complaining, I am just saying at the end of the day get together.

Mr. MITCHELL. Well, I would like to leave you with the thought that we collaborate on a regular basis, not just on one piece of proposed legislation. I mean our offices, our agencies work very closely.

Mr. NORWOOD. Well, I presume this isn't very important. That is why you didn't call them, and you don't necessarily need statutory authority to do what you want to do anyway?

Mr. MITCHELL. Well, we have—like I said, we have provided our perspectives on this legislation. I think there are some elements of this, as I said, that the Department of Homeland Security, from our perspective, and the majority of the components of this are addressing the programs in DHS. They are not addressing other Federal agencies' grants. So we have had significant discussions with the committee staff on this particular piece of legislation.

Mr. NORWOOD. But Dr. Raub has a big budget too and a lot of tax dollars, and he understands the need for training and standardization out there. Let us don't have two agencies—even if you did the exact same thing to have it done by two agencies. Get together.

Mr. MITCHELL. Well, I don't want to give you the, I don't want to say false impression, but the impression that the HSPD-8 is going to address a lot of these. But one of the components of HSPD-8 is to look at the existing standards that are out there. We are not talking about creating a whole new different suite of things. We are talking about taking a look at what currently exists and reaching consensus on which ones are the rights ones and moving out. We are not starting with a clean slate. There is an enormous amount of information that—

Mr. BILIRAKIS. Are you saying that there are areas that need to be fixed as a result of your experiences and you feel that HSPD-8 is going to take care of that. And for that reason it is not necessary to get them into this legislation?

Mr. MITCHELL. I think that there are a number of things that are already underway. As I discussed, the task force that is proposed, I agree with Dr. Raub, I think that duplicates existing structures.

We already have resources that are currently existing in the Department of Homeland Security that could play that role. The development of the preparedness measures that are called for under the current plan for HSPD-8 we will have those developed by July 31 of this year. We don't really need a task force to take a year to develop those. We are aggressively moving, as we speak, to address a number of the requirements that are specified in this bill.

Mr. BILIRAKIS. So it is wrong to have a task force requirement in this legislation.

Mr. MITCHELL. We think so; yes, sir.

Mr. BILIRAKIS. Well, I want to go to Mr. Shimkus now, but I think before we finish up here maybe we ought to sort of button up a couple of things that are still up in the air. Mr. Shimkus, please proceed.

Mr. SHIMKUS. Thank you, Mr. Chairman. And this is an important hearing, and I think we want to be very efficient with not only the dollars but with a clear plan for people who are applying. And I think my colleague, Dr. Norwood, is expressing some of the frustrations that I think many of us here out on the Hastings from folks who have this confusion and then they hear that there are dollars available and then it takes a long time for money to roll out, and they fear that the big bureaucracy consumes it all and it doesn't get where it is most needed. And I think that is just part of the, again, frustration, especially with the duplication that a lot of us are looking at with respect to the bioterrorism bill that we passed in 2002. And that is kind of where I am addressing some of my remarks to.

In one of my first—I am a fairly, not junior, but I guess mid-level member. I don't get on very many conferences, so when I get on one it is a big deal for me, and that was the case with the bioterrorism bill. And it seems to me that many of these first responders under H.R. 3266 are also covered under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. HHS must have preparedness goals for State and local governments that are similar to the, quote, unquote, "essential capabilities," that H.R. 3266 is referring to. This seems to be the thrust of what Mr. Raub's been mentioning in his testimony, I am assuming. Has HHS shared these goals and experiences with your, Mr. Mitchell, and the Department of Homeland Security for the administration of your grant programs?

Mr. MITCHELL. Well, I am not convinced that there is overlap in the two grant programs. I am quite confident we have complementary but different organizational focus. ODP's focus historically has been that first responders, police, fire, HazMat, EMS, that we don't train—our focus stops at the emergency room door, and we have collaborated with HHS, well, since our office has been in existence since 1998 on jointly reviewing training. Like I said, we have a group of representatives from CDC as well as HHS that when we are considering courses to be adopted, that the technical reviews on things that have a medical responsibility or medical focus are done by—it is better through those agencies.

It is not that the Department of Homeland Security or previously in the Department of Justice we did not develop medical training to train medical providers. It was a collaborative process, but they

did not overlap, and that was intentional, because the expertise in the health care system with acute care physicians and emergency room technicians and doctors and nurses is in HHS, and I think we would continue to maintain that balance. Even under this proposal, under this bill we would focus predominantly on the grants of DHS.

Mr. SHIMKUS. Yes. It seems like we are going to have a lot of—I saw Dr. Norwood go for the microphone and Mr. Raub, but let me just, before you all jump in, in H.R. 3266, in the definition, you do mention emergency medical including hospital emergency facilities. So it is just not stopping right at the door, it is actually going inside by your own definition, at least that is what we are reading. Is that true? And that is the confusion.

Mr. MITCHELL. Operationally, from ODP, that is true. This is not DHS' bill. This is a bill that we are commenting on just like anyone else. So we did not define the——

Mr. SHIMKUS. But you worked with our colleague, Congressman Cox——

Mr. MITCHELL. Sure.

Mr. SHIMKUS. [continuing] on drafting legislation. So you, in essence——

Mr. MITCHELL. We worked with him on providing our comments. No, we did not work to draft it. We reviewed it after it was——

Mr. SHIMKUS. So do you support the bill or don't you support the bill?

Mr. MITCHELL. We support certain elements of the bill, as I said in my testimony and as we introduced—I mean there are components in there that we don't support or we don't support in the way it is developed in the legislation. And, certainly, we would not support anything that would create duplication between what HHS and DHS does collectively with grants to help State and local governments. But, historically, we have not provided resources, training, equipment for hospital providers. That has been handled under the Bio Preparedness Program and the HRSA Program.

Mr. SHIMKUS. Mr. Chairman, I think my colleague, Dr. Norwood, would like some time, and I would like to yield some time to him.

Mr. NORWOOD. If you would yield just a second. Let me follow right into that subject right there. Under Section 1806 of the bill, volunteer equipment standards and training standards would, DHS, end up doing standards on hospital emergency facility equipment for emergency medical personnel training. Would you do that under this bill?

Mr. MITCHELL. Under HSPD-8, those are the types of things—we have the lead on that and DHS know that would not be—the lead on that would be——

Mr. NORWOOD. So you will not do that, because you said you will stop at the emergency room door.

Mr. MITCHELL. No, I didn't say—if we are looking at preparedness of the Nation under HSPD-8, we are looking across the Federal Government, so, yes, those may be issues that are addressed, but they would be addressed as directed by HHS. It would not be our office or someone in DHS arbitrarily developing standards for those types of equipment.

Mr. NORWOOD. Well, what if there is not an emergency room? What if it is blown up? What if we are talking about equipment out in the field, which is likely to be a situation for a serious disaster?

Mr. MITCHELL. Like a field hospital or some other triage capability?

Mr. NORWOOD. Actually, under a tree. I mean it can get just that way in a real disaster. Mr. Chairman, I will conclude with this. All I am telling you is, yes, you didn't write the bill because you can't, but you collaborated on it, and I am concerned that the two agencies—now, I am talking about not all of it, I am talking about just the response, the two agencies should be talking and you should dare not come out with two sets of who is in charge and two sets of standards. That is all I am saying.

Mr. BILIRAKIS. They did not both collaborate in it, though. HHS did not collaborate in any way, apparently, from what I understand, and I am not sure to what degree DHS collaborated because you say there are some things in here that you like and some things that you don't like.

Mr. MITCHELL. Well, just like any number of bills we are asked to comment on, we were asked to comment on this one, and I can assure you there are a lot of them we are asked to comment on.

Mr. BILIRAKIS. Were you asked to comment on it before today, before this hearing?

Mr. MITCHELL. Yes, sir. Actually, we have testified on this bill prior to today.

Mr. BILIRAKIS. How about HHS?

Mr. RAUB. To the best of my knowledge, sir, this is the first and only opportunity we have had to testify on this bill.

Mr. BILIRAKIS. So you see where we are here.

Mr. NORWOOD. Yes, sir. That has got to be fixed.

Mr. BILIRAKIS. Yes. I think so, and that is why I say I wish Mr. Cox were here. Well, you have given us your testimony, we have asked questions. I think we kind of went into this assuming it was going to be sort of a relatively routine hearing, but I think it has turned out not to be. Maybe it is a good thing that there aren't more Members of Congress here.

Mr. SHIMKUS. Mr. Chairman?

Mr. BILIRAKIS. Yes.

Mr. SHIMKUS. Mr. Raub was going to comment on the discussion we had on just the medical aspect, and if you still would like to, sir, I want to make sure you get a chance to.

Mr. BILIRAKIS. By all means, please do so.

Mr. RAUB. And, actually, I have accumulated a few more now, if I may.

Mr. BILIRAKIS. A few million more?

Mr. RAUB. The comment I was going to make earlier is that our staffs have had considerable interaction about our respective award programs to the State and locals, particularly with the movement of ODP to, the new Department of Homeland Security. We had some staff interaction so we could each understand better what the other was attempting to achieve, and I reinforce Mr. Mitchell's statement that we think we have a strong complementarity of the way we award funds to public health departments and to hospitals

and the way DHS awards funds to what I will call the traditional first responders.

We have some areas that we indeed must continue to work at, with or without legislation. Emergency medical services is one example of that. Many EMS units are based in fire departments and therefore would be included under the awards coming from DHS. Other EMS units are free-standing and may not be picked up automatically. In any event, our program for hospital preparedness has an EMS outreach component to it trying to address, in part, the question that Mr. Norwood was raising of how do the people in emergency rooms engage with the field forces that are dealing with hazardous materials, activities, or other types of trauma, burn, emergency medical situations. None of us believe we have all the answers to that, but absent legislation I can—or with legislation we can assure you that the two agencies and others will continue to address that very strongly.

Mr. SHIMKUS. Mr. Chairman, if I may just add to that. One of the grant programs that I have been very, very pleased with that has not been part of this debate but when you talked about fire services and EMS inside fire services is the Fire Act grant that actually comes through FEMA. But here is another example of another grant program that really can impact and impinge on homeland security and the ability to respond. It is easy, it is clear and there doesn't seem to be a lot of bureaucratic hurdles. And when the folks that I have worked with have made application and they have not been successful, they have had an easy way of looking at their application to find out why it hasn't been successful.

On the positive side, I am very, very pleased with it. I would like to see it maybe expanded to EMS. But that is a FEMA agency—I mean that is a grant program through FEMA, not through HHS or not through Homeland Security, so now we have got three.

Mr. MITCHELL. Well, actually, Mr. Congressman, that program is currently administered by ODP. It was transferred to ODP in fiscal year 2004.

Mr. SHIMKUS. Oh, that is right, it changed. Right.

Mr. BILIRAKIS. How about my sheriff who needs some money for his radios, first responder?

Mr. MITCHELL. They are eligible to receive equipment funding under the Homeland Security Grant Program.

Mr. BILIRAKIS. Could they also go to FEMA?

Mr. MITCHELL. FEMA had some funding I think in 2003 for interoperable communications. It was kind of a demonstration program. I am not aware that they have funding in 2004, but that is one of the principal funding categories in the Homeland Security Grant Program and in the Law Enforcement Prevention Program as well. The communications upgrades are addressing the communications needs of law enforcement who are eligible.

Mr. BILIRAKIS. Well, we have got to finish this up some time. Go ahead, Doctor.

Mr. NORWOOD. Just final words.

Mr. BILIRAKIS. Final words coming from Dr. Norwood.

Mr. NORWOOD. The fun part, of course, is buying the equipment. Everybody likes to do that. Everybody likes to have all the good, shiny, new stuff. What I am afraid, though, and I am not positive

but just a little bit of work we have done on this, we are behind the eight ball a little bit with training and most particularly standardized training. And I am talking about the type of training that lets the EMS, the State patrol, the fire chief, everybody take care of responding after the disaster has occurred. And I know you guys are doing some of that, but we are not there, and maybe time hasn't been available to us, but I urge you to get very serious about that, because it doesn't do any good too have all that new equipment if people don't know what orderly to do in a fire fight, because that is what it is. Thank you, Mr. Chairman.

Mr. BILIRAKIS. Well, my gratitude to you and to Mr. Shimkus for taking the time to be here. You have contributed so very much. And, gentlemen, you have worked so very hard. We owe you an awful lot. But we want to do the right thing here, and we are—I think we have all expressed a little disappointment that you haven't had more of an input in this legislation, because it involves you. And, granted, it is DHS but at the same time it includes an awful lot—well, there should have been better coordination.

So we give you the opportunity now. We are going to have a markup on this, I suppose, somewhere downstream, and we are giving you the opportunity for inputs. If you want to make a case that it may do more harm than good, please feel free to make that case. If you, as you have already done, made recommendations on some changes should be made to what is in there, just maybe expand on that. If you want to come to the conclusion that the legislation is going to go forward anyhow, it may be your opportunity as a vehicle to correct some areas that you see need to be corrected legislatively in terms of this issue.

So as usual we have a series of questions which we will furnish you with, and we would hope you respond in a timely fashion, but, again, keep in mind June 7. So I don't know whether this thing has been scheduled for markup? No, it has not been scheduled for markup. Again, on the premise it is going to go into markup within the next few days, that is only a premise, I have no idea. I have a meeting in a half hour. I may find out a little more about that. Please furnish us whatever inputs you may have. You have an opportunity to do it here now. Thanks for all your help. Appreciate it.

Mr. MITCHELL. Thank you, Mr. Chairman.

Mr. RAUB. Thank you, Mr. Chairman.

Mr. BILIRAKIS. The hearing is adjourned.

[Whereupon, at 4:03 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

U.S. HOUSE OF REPRESENTATIVES
June 28, 2004

The Honorable MICHAEL BILIRAKIS
Chairman, Subcommittee on Health
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

DEAR CHAIRMAN BILIRAKIS: Enclosed please find the response to the question for the record you submitted on behalf of Representative Pickering relating to my testimony at the May 11, 2004 hearing of the Subcommittee on Health on "H.R. 3266, the Faster and Smarter Funding for First Responders Act of 2004."

I appreciate the opportunity you provided to testify before the Subcommittee in support of this important legislation to enhance the capabilities of America's first responders to prevent, prepare for, and respond to acts of terrorism.

Sincerely,

CHRISTOPHER COX
Chairman

Enclosure

QUESTION BY THE HONORABLE CHARLES W. "CHIP" PICKERING

Question: H.R. 3266, as reported by the Select Committee on Homeland Security on March 17 adopts the definition of "emergency response providers" from the Homeland Security Act as the definition of "first responder" in the bill. In explaining its intent, the committee included report language addressing "related personnel" as part of that definition, which includes non-governmental organizations with assigned responsibilities under domestic preparedness and response incident management plans. Is it your understanding that such non-governmental organizations like the American Red Cross, who have mandated responsibilities under the current Federal Response Plan, would qualify for that definition?

Answer: Yes. The Homeland Security Act's definition of "emergency response providers" is not limited to Federal, State, and local government personnel and entities. The Select Committee's Report on H.R. 3266 (H. Rep. 108-460) notes that the Select Committee believes, and for purposes of H.R. 3266 intends, that the "related personnel" element of that definition should be understood to include non-governmental organizations that have mandated responsibilities under the Federal Response Plan. The Select Committee understands that the American Red Cross is such an organization.

RESPONSES FOR THE RECORD TO QUESTIONS OF HON. CHARLES W. "CHIP" PICKERING

QUESTION FOR DHS AND HHS WITNESS:

QUESTION: Public health preparedness and response is a critical component of ensuring our nation's homeland security.

What steps are your agencies taking to protect the blood supply from a bioterror attack or cybersecurity breach and have you engaged the Red Cross for their expertise?

RESPONSE: The Department of Health and Human Services (HHS) is currently working with the entire blood community on blood supply protections, including the American Red Cross (ARC) which collects and supports approximately 45 per cent of the nation's blood supply. The blood supply critical infrastructure protection (CIP) is being addressed locally at blood centers. HHS is also addressing blood supply safety through its work with the American Association of Blood Banks' Inter-organizational Task Force on Domestic Disasters and Acts of Terrorism (Task Force). The Task Force presented a blood safety plan in January, 2004, that incorporates recommendations by the Advisory Committee on Blood Safety and Availability. The goal of the plan is to store 10,000 units of blood, at key strategic locations throughout the U.S., for delivery within 4-6 hours. The first locations would be at two military facilities so that the CIP could be sufficiently evaluated. Under the plan, once the first two military sites are operational, HHS would identify eight other sites throughout the U.S. The CIP model developed in the first phase, with the military, would be used to evaluate and shore up the civilian sites. The figure of 10,000 units was determined through HHS's experience with the "Top-Off" bioterrorism exercise, as an amount needed to sustain two cities for three days.

With regard to cybersecurity, HHS notes that ARC has struggled with its computer system for well over ten years and this matter has been cited in its Consent Decree. Nevertheless, the issue of cybersecurity will be evaluated as HHS identifies the ten locations and data sharing to support the plan for a blood Reserve.

